www.dachenglaw.com
北京市东直门南大街 3 号国华投资大厦 5 层/12 层/15 层（100007）
5/F, 12/F, 15/F, Guohua Plaza, 3 Dongzhimennan Avenue,
Beijing 100007, China
Tel: +8610-58137799
Fax: +8610-58137788

DACHENG LAW OFFICES
大成律师事务所

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跨境争议解决
Cross-border Dispute Resolution

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编者按：本刊旨在报道中国法下跨境争议解决的最新动态与我们的实务经验，但本刊不可替代个案的正式法律意见。您若重复收到本刊或者要订阅、退订或进一步了解本刊的内容，请与大成的有关律师联系。

Editor's note: the purpose of this publication is to report the most recent developments in the field of cross-border dispute resolution and enforcement in China, as well as our practical experience therein. However, this publication should not be treated as a substitute for a formal legal opinion in individual cases. If you have received this publication more than once, or would like to subscribe or unsubscribe to this publication, or follow up on any issues raised in this publication, please be in contact with the lawyer you usually deal with at Dacheng Law Offices.

立法新闻
LEGISLATIVE NEWS

- **最高人民法院公布关于适用《中华人民共和国公司法》若干问题的规定（三）（来源：人民法院报，2011 年 2 月 16 日）**

  Supreme People's Court Issues Provisions on Certain Issues on the Application of the PRC Company Law (III) (source: People's Court Daily, 16 February 2011)

最高人民法院公布了关于适用《中华人民共和国公司法》若干问题的规定（三）（解释（三）），就人民法院审理公司设立、出资、股权确认等纠纷案件适用法律问题做出了明确规定，该规定自 2011 年 2 月 16 日施行。

The Supreme People's Court promulgated the Provisions on Certain Issues on the Application of the PRC Company Law (III) (Interpretation (III)), which specifies the application of laws for hearing of dispute cases relevant to the establishment of companies, capital contribution, and equity verification. These provisions shall come into effect as of February 16, 2011.

解释（三）具体从如下六个方面进行设计：一是落实公司成立前债务的责任主体；

二是确立典型非货币出资到位与否的判断标准及救济方式；三是界定非自有财产出资行为的效力；四是明确未尽出资义务（包括未履行出资义务或未全面履行出资义务）和抽逃出资的认定、诉讼救济的方式以及民事责任；五是规范限制股东权利的条件和方式；六是妥善平衡名义股东、股权权属的实际享有者以及公司债权人间的利益。

The Interpretation (III) was crafted considering following six aspects: 1. identifying the liability subjects prior to the establishment of companies; 2. setting judgment criterion and remedy solutions for the placement of typical non-currency contribution. 3. defining the validity of the contribution of non-self-owned property; 4. clarifying the verification, judicial remedy and civil liability for non-duly-performed obligation of capital contribution (including capital contribution obligation that is not performed or that is not completely performed) or contribution withdraw; 5.standardizing the conditions and ways of restricting rights of shareholders; 6. balancing the interests between nominal shareholders, de facto equity owners and creditors of companies.

- **最高人民法院出台《国家赔偿法》司法解释（来源：人民法院报，2011 年 3 月 18 日）**
  Supreme People's Court Issues the Judicial Interpretation on State Compensation Law (source: People's Court Daily, 18 March 2011)

最高人民法院公布了《关于适用〈中华人民共和国国家赔偿法〉若干问题的解释（一）》（《解释》），自 2011 年 3 月 18 日施行。

The Supreme People's Court (SPC) promulgated the Interpretations on Several Issues Concerning the Application of the State Compensation Law of People's Republic of China (I) (the Interpretations), which shall come into effect as of March 18, 2011.

《解释》明确，国家机关及其工作人员行使职权侵犯公民、法人和其他组织合法权益的行为发生在 2010 年 12 月 1 日以后，或者发生在 2010 年 12 月 1 日以前、持续至 2010 年 12 月 1 日以后的，适用修正的国家赔偿法。

The Interpretation clarifies with respect to acts of a state organ and its public officers during performing their duties which violate lawful rights and interests of citizens, legal persons or other organizations, if the acts happened after December 1st, 2011, or happened before December 1st 2011 while lasted to thereafter, the revised state compensation law shall be applied.

根据《解释》，赔偿请求人或者赔偿义务机关认为法院赔偿委员会作出的赔偿决定存在错误，依法向上一级人民法院赔偿委员会提出申诉的，不停止赔偿决定的执行。

In accordance with the Interpretation, where a compensation claimant or a compensation obligatory organ deems the compensation decision made by the Compensation Committee of the People's Court have an error, and appeals to the Compensation Committee of the People's Court at an upper level in accordance with the law, the execution of compensation decision shall not be suspended. In accordance with the Interpretation, where a compensation claimant or a compensation obligatory organ deems the compensation decision made by the Compensation Committee of the People's Court

have an error, and appeals to the Compensation Committee of the People's Court at an upper level in accordance with the law, the execution of compensation decision shall not be suspended.

- **最高人民法院发布《关于修改<民事案件案由规定>的决定》（来源：人民法院报，2011 年 3 月 21 日）**

Supreme People's Court Promulgated the Decision on the Revision of Regulations on Causes of Action in Civil Cases (source: People's Court Daily, 21 March 2011)

最高人民法院发布《关于修改〈民事案件案由规定〉的决定》(《决定》)，对 2008 年 2 月 4 日制发的《民事案件案由规定》进行第一次修改，自 2011 年 4 月 1 日起施行。

The Supreme People's Court (SPC) promulgated the Decision on the Revision of Regulations on Causes of Action in Civil Cases (the Decision) which firstly revised the Regulations on Causes of Action in Civil Cases promulgated in February 4th, 2008, and shall come into effect as of April 1st, 2011.

修改后的《民事案件案由规定》共有第一级案由 10 个，第二级案由 42 个，第三级案由 424 个，第四级案由 367 个。

The Revised Regulations on Causes of Action in Civil Cases include 10 causes of action at the first level, 42 causes of action at the second level, 424 causes of action at the third level and 367 causes of action at the forth level.

《决定》将“侵权纠纷”案由提升为第一级案由，并按照侵权责任法相关规定，增加了案由。增加了“产品责任纠纷”、“高度危险责任纠纷”等 15 个具体的侵权责任纠纷第三级案由，还在有关侵权责任纠纷第三级案由项下增加了 28 个具体的第四级案由。

The Decision changes the causes of tort disputes to the causes at the first level and in line with relevant rules prescribed in the Tort Law, the Decision increases certain causes. Among them, 15 causes, including the product liability disputes and disputes for high-degree hazard liability are added as the specific tort liability disputes at the third level. Furthermore, there are 28 specific causes at the forth level added under the third level of the item named tort-liability relevant disputes.

- **发展改革委发布《商品房销售明码标价规定》（来源：国家发展改革委，2011 年 3 月 22 日）**

The National Development and Reform Commission Issues the Provisions on the Marked Pricing for Sales of Commercial Houses (source: National Development and Reform Commission, 22 March 2011)

国家发展改革委发布了《商品房销售明码标价规定》(《规定》)，自 2011 年 5 月

1 日起施行。

The National Development and Reform Commission (NDRC) promulgated the Provisions on the Marked Pricing for Sales of Commercial Houses (the Provisions), which shall come into effect as of May 1st, 2011.

中国境内的房地产开发企业和中介服务机构销售新建商品房，应当按照《规定》实行明码标价。中介服务机构销售二手房的明码标价参照《规定》执行。

The domestic real estate development enterprises and intermediary service institutions shall, when sell the newly-built commercial houses, comply with the Provisions and carry out the marked pricing. The intermediary service institutions shall, when sell the second-hand house, refer to the Provisions.

根据《规定》，商品房经营者应当在商品房交易场所的醒目位置放置标价牌、价目表或者价格手册，有条件的可同时采取电子信息屏、多媒体终端或电脑查询等方式。采取上述多种方式明码标价的，标价内容应当保持一致。

In accordance with the Provisions, the operators of the commercial houses shall provide the marked price signboard, pricing catalogue, and pricing brochure, and if the condition is permitted, the electronic information screen, multimedia terminals or computers for inquiry at the striking place of commercial houses exchange. Where more than one marked pricing way is conducted, the marked price shall be consistent.

- **最高人民法院规范国家赔偿案件审理程序（来源：人民法院网，2011 年 3 月 22 日）**

The Supreme People's Court Regulates the Trial Procedure for State Compensation Cases (source: People's Court Daily, 22 March 2011)

最高人民法院发布《关于人民法院赔偿委员会审理国家赔偿案件程序的规定》（《规定》），自 2011 年 3 月 22 日施行。

The Supreme People's Court promulgated the Provisions on Trial Procedure for State Compensation Cases of Compensation Committee under the People's Court (the Provisions), which shall come into effect as of March 22, 2011.

根据《规定》，赔偿请求人向赔偿委员会申请做出赔偿决定，应当递交赔偿申请书一式四份。赔偿请求人书写申请书确有困难的，可以口头申请。口头提出申请的，人民法院应当填写《申请赔偿登记表》，由赔偿请求人签名或者盖章。

In accordance with the Provisions, a compensation claimant who applies to compensation committee for the compensation decision shall submit compensation application form in quadruplicate. Where the claimant has difficulty in writing application form, the oral application may be accepted. Where the oral application has made, the People's court shall fill in the Record Form for the Compensation Application, and the claimant shall sign or stamp on the said Record Form.

赔偿请求人向赔偿委员会申请作出赔偿决定，应当提供相关法律文书和证明材

料。

Where the claimant applies to the compensation committee for the compensation decision, he/she shall provide relevant legal documents and proof materials.

- **最高人民法院出台规定规范人民调解协议司法确认程序（来源：最高人民法院，2011 年 3 月 30 日）**

SPC Issued Provisions to Regulate the Judicial Confirmation Process of the Settlement through People's Mediation Committee (source: Supreme People's Court, 30 March 2011)

最高人民法院公布了《最高人民法院关于人民调解协议司法确认程序的若干规定》(《规定》)，自 2011 年 3 月 30 日施行。

The Supreme People's Court promulgated the Several Provisions on Judicial Confirmation Process of the Settlement through People's Mediation Committee (the Provisions), which shall be implemented as of March 30, 2011.

《规定》明确，司法确认案件由主持调解的人民调解委员会所在地基层法院或者它的派出法庭管辖。

The Provisions clarify that the judicial confirmation case shall be governed by the primary court or its dispatched tribunal at the locality of where the People's Mediation Committee is located.

根据《规定》，法院收到当事人司法确认申请，应当在三日内决定是否受理。法院决定受理的，应当编立“调确字”案号，并及时向当事人送达受理通知书。

According to the Provisions, a court shall decide whether to accept a party's application for judicial confirmation in three (3) working days upon receiving such application. Where the application is accepted, the court shall file the case with certain case number as "Tiao Que Zi", and shall send an acknowledgement letter to the Parties in a timely manner.

- **两高出台办理诈骗刑事案件司法解释（来源：人民法院网，2011 年 4 月 8 日）**

SPC and SPP Issue Judicial Interpretations on Handing Criminal Fraud Cases (source: People's Court Daily, 8 April 2011)

最高人民法院、最高人民检察院联合发布《关于办理诈骗刑事案件具体应用法律若干问题的解释》，自 2011 年 4 月 8 日起施行。

The Supreme People's Court (SPC) and the Supreme People's Procuratorate (SPP) jointly promulgated the Interpretations on Several Issues Concerning Application of Laws in Handing Criminal Fraud Cases (the Interpretations), which shall come into effect as of April 8, 2011.

《解释》明确了诈骗罪的定罪量刑标准，将最低入罪门槛由原来的二千元提高为三千元，同时规定诈骗三千元至一万元以上为数额较大，诈骗三万元至 50 万元以上的为数额巨大。

The Interpretations clarify the standards on convictions and penalties for Fraud and increase the conviction threshold from current RMB 2,000 to RMB 3,000 and simultaneously stipulate that fraud amount from RMB 3,000 to 10,000 are deemed as large volume and fraud amount from RMB 30,000 to RMB500, 000 are deemed as enormous volume.

《解释》明确了五种可以予以从严惩处的诈骗犯罪的具体情形：包括通过发送短信、拨打电话或者利用互联网、广播电视、报刊杂志等发布虚假信息，对不特定多数人实施诈骗等。

The Interpretations also clarify five specific circumstances of fraud shall be given a severe punishment, including fraud to unspecific majority by publishing false information via text messages, telephone, internet, broadcast or television, newspapers or journals.

- 全国人大常委会修改《中华人民共和国道路交通安全法》（来源：中国人大网，2011 年 4 月 22 日）

Committee of the National People’s Congress Amend the Law of the People’s Republic of China on Road Traffic Safety (source: www.npc.gov.cn, 22 April 2011)

第十一届全国人民代表大会常务委员会第二十次会议决定修改《中华人民共和国道路交通安全法》。修改后的法律规定饮酒后驾驶机动车的，将被暂扣六个月驾驶证并处罚款。

It is decided at the 20th Session of the Standing Committee of the 11th National People’s Congress to amend the Law of the People’s Republic of China on Road Traffic Safety. As provided in the law, whoever drives a motor vehicle after drinking alcohol shall be temporarily withheld of his motor vehicle driving license for six months and be concurrently imposed on a fine.

- 四部门出台刑罚适用禁止令司法解释（来源：正义网，2011 年 5 月 4 日）

Ministries Issue Interpretations on the Application of Injunctions in Penalty (source: www.jcrb.com, 4 May 2011)

最高人民法院、最高人民检察院、公安部、司法部近日联合发布了《关于对判处管制、宣告缓刑的犯罪分子适用禁止令有关问题的规定(试行)》(《规定》)，明确禁止令对被判处管制、宣告缓刑的犯罪分子的正确适用和执行的具体内容和要求。

The Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice jointly promulgated the Provisions on Issues Concerning the Application of Injunction to Criminals Who Are Sentenced to Public Surveillance, or Pronounced Reprieve (Implementation for Trial) (the Provisions), which

clarify the specific content and requirement of injunctions to criminals who are sentence to public surveillance or are pronounced reprieve for the purpose of correct application and implementation of such injunctions.

根据《规定》，对实施证券犯罪、贷款犯罪、票据犯罪、信用卡犯罪等金融犯罪的，法院可以禁止判处管制、宣告缓刑的犯罪分子在管制执行期间、缓刑考验期限内从事证券交易、申领贷款、使用票据或者申领、使用信用卡等金融活动。

As provided in the Provisions, In case of criminals who commit financial crimes including securities crimes, loan crimes, notes crimes, and/or credit card crimes, the court may grant injunction against criminals who are sentenced to public surveillance or are pronounced reprieve from financial activities, namely engaging in securities transactions, application of loan, use of notes, or application and use of credit card during the period of public surveillance enforcement or the trial for release on reprieve.

- **未取得房产证前退房，可退还契税（来源：财政部，2011 年 5 月 13 日）**

Deed Tax Will Be Refunded if House Purchase Is Cancelled Before Obtaining the Certificate of Property Ownership (source: the Ministry of Finance, 13 May 2011)

财政部、国家税务总局联合发布《关于购房人办理退房有关契税问题的通知》(《通知》)。《通知》明确，对已缴纳契税的购房单位和个人，在未办理房屋权属变更登记前退房的，退还已纳契税；在办理房屋权属变更登记后退房的，不予退还已纳契税。

The Ministry of Finance, State Administration of Taxation jointly promulgated the Circular on Issues concerning the Deed Tax Relevant to Cancellation of the House Purchase by House Purchasers (the Circular), which specify that with respect to units and individuals who have paid the deed tax, and cancelled the house purchase before handling the registration of the change of property ownership, the deed tax shall be refunded. While if the cancellation of house purchase was conducted after the registration of the change of property ownership, the deed tax shall not be refunded.

- **最高人民法院明确委托执行中的若干问题（来源：人民法院报，2011 年 5 月 16 日）**

The Supreme People's Court Specifies Several Issues on Entrusted Enforcement (source: People’s Court Daily, 16 May 2011)

最高人民法院发布《关于委托执行若干问题的规定》(《规定》)，自 2011 年 5 月 16 日起施行。

The Supreme People's Court (SPC) promulgated the Provisions on Several Issues concerning the Entrusted Enforcement, which shall come into effect as of May 16, 2011.

根据《规定》，执行法院经调查发现被执行人在本辖区内已无财产可供执行，且在其他省、自治区、直辖市内有可供执行财产的，应当将案件委托异地的同级法院执行。

As provided by these Provisions, where the enforcement court, upon investigation, discovers the enforcees have no property in this jurisdiction for enforcement, but have enforceable property in other province, autonomous region, or municipality, the enforcement court shall entrust such case to corresponding court at the same level for enforcement in that jurisdiction.

执行案件中有三个以上被执行人或者三处以上被执行财产在本省、自治区、直辖市辖区以外，且分属不同异地的，执行法院根据案件具体情况，报经高级人民法院批准后可以异地执行。

Where there are more than three enforcees or more than three enforceable properties located outside this province, autonomous region or municipality, and in different jurisdictions, the enforcement court shall, pursuant to specific circumstances, after the approval of the higher people's court, may enforce such property in different jurisdiction.

- **七部门制定《关于规范商业预付卡管理的意见》（来源：中国政府网，2011 年 5 月 25 日）**

Several Departments Jointly Issue the Opinions on Standardizing the Administration on Commercial Prepaid Cards (source: www.gov.cn, 25 May 2011)

国务院办公厅转发了人民银行监察部等七部门《关于规范商业预付卡管理的意见》(《意见》)，要求规范商业预付卡的发行和购买。

The Opinions on Standardizing the Administration on Commercial Prepaid Cards (“Opinions”) promulgated by seven departments including the Supervision Department of the People's Bank of China have been forwarded by the General Office of the State Council, which request to standardize the issuance and purchase of commercial prepaid cards.

《意见》要求建立商业预付卡购卡实名登记制度。对于购买记名商业预付卡和一次性购买 1 万元（含）以上不记名商业预付卡的单位或个人，由发卡人进行实名登记。

The Opinions request to establish the autonym registration system of commercial prepaid cards. The card issuers shall carry out the autonym registration for any individual who purchases antonym commercial prepaid cards or any unit who purchases non-antonym commercial prepaid cards in a lump-sum with more than CNY 10,000 (inclusive).

《意见》还要求实行商业预付卡限额发行制度。不记名商业预付卡面值不超过 1000 元，记名商业预付卡面值不超过 5000 元。

In addition, the Opinions request to carry out ceiling quota issuance system of commercial prepaid cards. The par value of a non-autonym commercial prepaid card shall not exceed CNY 1,000, and that of an autonym commercial prepaid card shall not exceed CNY 5,000.

- **上海市修改商品房销售、买卖合同示范文本条款（来源：上海市住房保障和房屋管理**

局，2011 年 5 月 27 日）

Shanghai Revises the Clauses of Sample Contracts of Distribution and Sales & Purchase of Commodity Houses (source: The Bureau of Housing Security and Housing Administration of the Shanghai Municipality, 27 May 2011)

上海市住房保障和房屋管理局、上海市工商行政管理局联合公布了《关于修改本市商品房销售、买卖合同示范文本条款的通知》(《通知》)，自下发之日起执行。

The Bureau of Housing Security and Housing Administration of the Shanghai Municipality and Shanghai Administration of Industry and Commerce jointly promulgated the Circular on Revision of the Clauses of Sample Contracts of Distribution and Sales & Purchase of Commodity Houses, which shall come into effect as of the date of promulgation.

《通知》增加了有关住房限售规定的特别告知、违反住房限售规定解除合同的责任等条款。

This Circular added the clauses of special notice with relevant to provisions on restricted sales of houses, and liabilities incurred from rescission of contracts in violation of provisions on restricted sales of houses.

《通知》规定，房地产开发企业预售、出售新建商品房，应当采用修改后的《预售合同示范文本》、《出售合同示范文本》与购房人订立合同；存量房买卖双方当事人应当采用《买卖合同示范文本》。

Furthermore, the Circular provided that, the real estate development enterprises in the course of pre-sale or sale of newly-built commodity houses, shall adopt revised Sample Pre-sale Contract and Sample Sales Contract to conclude the contracts with the house purchaser(s). The Parties to sales of stock houses shall adopt Samples Sales & Purchase Contract.

- **最高人民法院就船舶油污损害赔偿纠纷案件审理发布司法解释（来源：人民法院报，**2011 年 6 月 15 日）

The Supreme People's Court Promulgates a Judicial Explanation on the Trial of the Cases of Compensation for Damages Caused by Vessel Oil Spills (source: People’s Court Daily, 15 June 2011)

最高人民法院公布《关于审理船舶油污损害赔偿纠纷案件若干问题的规定》(《规定》)，自 2011 年 7 月 1 日起施行。

The Supreme People's Court has published the Regulations on Several Issues concerning the Trial of the Cases of Compensation for Damages Caused by Vessel Oil Spills (the Regulations). It shall come into effect as of July 1, 2011.

《规定》详细规定了船舶油污损害赔偿纠纷案件的适用范围、案件管辖、油污责任、赔偿范围与损失认定、船舶优先权、油污责任限制及债权登记与受偿、油污索赔

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代位受偿权等方面的内容。

The Regulations specify in detail relevant content such as the applicable scope of the cases of the compensation for damages caused by vessel oil spills, case jurisdiction, oil pollution liabilities, compensation scope, loss identification, maritime lien, restriction of the oil pollution, obligatory right registration and payment, and subrogation of the oil pollution claim.

《规定》明确，船舶油污损害赔偿范围包括：1.为防止或者减轻船舶油污损害采取预防措施所发生的费用，以及预防措施造成的进一步灭失或者损害；2.船舶油污事故造成该船舶之外的财产损害以及由此引起的收入损失；3.因油污造成环境损害所引起的收入损失；4.对受污染的环境已采取或将要采取合理恢复措施的费用。

According to the Regulations, the scope of the compensation for the damages caused by vessel oil spills shall include: 1. the expenses for the preventive measures which are taken to prevent or reduce the damages caused by vessel oil spills, and further losses and damages which are caused by the preventative measures; 2. property and income losses other than the loss of the vessel which are caused by the vessel oil spills; 3. income losses caused by environmental damages resulting from the oil pollution; 4. the expenses for the reasonable measures which have been taken or are to be taken to recover the polluted environment.

- **海峡两岸司法互助工作有章可循（来源：人民法院报，2011 年 6 月 17 日）**

Rules on Mutual Judicial Assistance across the Taiwan Straits Available to Follow (source: People's Court Daily, 17 June 2011)

最高人民法院发布了《关于人民法院办理海峡两岸送达文书和调查取证司法互助案件的规定》（《规定》），自 2011 年 6 月 25 日起施行。

The Supreme People's Court promulgated the Rules on Judicial Assistance for the Handling of Cases by People's Courts across the Taiwan Straits in respects of Service of Process and Investigation and Collection of Evidence (the "Rules"), which shall come into effect on June 25, 2011.

《规定》全面规范和明确了人民法院办理送达文书和调查取证司法互助案件应遵守的基本原则、职责分工、具体办理程序、审查转送时限和相关保障措施等。

The Rules regulated and specified the basic principles that shall be followed by the people's courts in providing judicial assistance with respect to service of process and investigation and collection of evidence, and the duties and responsibilities, specific handling procedures, time limit for review and transmission and relevant assurance measures therefor.

就协助台湾地区送达文书和调查取证，《规定》对具体办理法院分别明确规定了两个月和三个月的最长办理时限，而且分别要求一般应当在十五日和一个月内完成。

With respect to assisting Taiwan region in serving process, investigating cases and

collecting evidence, the Rules set out the maximum time limits of two months and three months respectively for particular handling courts, while requiring that such assistance shall generally be completed within fifteen days and one month respectively.

- **《专利实施许可合同备案办法》出台（来源：国家知识产权局，2011 年 6 月 30 日）**

Measures for Filing of Patent Licensing Contracts are issued (source: State Intellectual Property Office, 30 June 2011)

国家知识产权局公布了《专利实施许可合同备案办法》(《办法》)，自 2011 年 8 月 1 日起施行。

The State Intellectual Property Office has issued the Measures for Filing of Patent License Contracts (the Measures) which shall come into effect on August 1, 2011.

根据《办法》，专利实施许可的许可人应当是合法的专利权人或者其他权利人。以共有的专利权订立专利实施许可合同的，除全体共有人另有约定或者《专利法》另有规定的外，应当取得其他共有人的同意。

According to the Measures, the licensor of contract licensing shall be lawful patent owner or other right-holder. If patent licensing contract is concluded on the basis of jointly-owned patent rights, unless there is a separate agreement among all the co-owners or otherwise provided for in the Patent Law, the consent of other co-owners shall be obtained.

《办法》规定，申请备案的专利实施许可合同应当以书面形式订立。

According to the Measures, patent licensing contracts for which filing is applied shall be concluded in a written form.

司法动态
JUDICIAL DEVELOPMENTS

- **最高人民法院出台规定配偶子女为律师的法官实行任职回避（来源：最高人民法院，2011 年 2 月 17 日）**

The Supreme People's Court issues regulations which require the withdrawal of a judge in the exercise of office where his/her spouse or children are lawyers (source: Supreme People's Court, 17 February 2011)

近日，最高人民法院发布《关于对配偶子女从事律师职业的法院领导干部和审判执行岗位法官实行任职回避的规定（试行)》，并从发布之日起在全国各级人民法院统一施行。

The Supreme People's Court recently issued Regulations (Trial) regarding Withdrawal of Court Officials and Trial and Enforcement Judges in the Exercise of Office where

His/Her Spouse or Children are Lawyers, which became effective from the date of issuance for implementation across the various levels of the court system.

- 最高人民法院出台规定防止法院内部人员干扰办案（来源：最高人民法院，2011 年 2 月 24 日）

The Supreme People's Court issues regulations aimed to prevent court employees interfering with the handling of cases (source: Supreme People's Court, 24 February 2011)

为在审判工作中防止法院内部人员对办案工作的不当干扰，促进人民法院公正廉洁司法，近日，最高人民法院出台了《关于在审判工作中防止法院内部人员干扰办案的若干规定》（以下简称《规定》）。《规定》的出台，旨在加强对法院内部人员自我约束，帮助广大干警抵御请托说情之风，不仅有利于促进公正廉洁司法，同时有利于办案干警进行自我保护。

The Supreme People's Court recently issued Several Regulations to Prevent Court Employees from Interfering with the Handling of Cases in the Trial Practice, with an aim to prevent improper interference by court employees in the handling of cases, and to promote court justice and non-corrupt practice. The Regulations intend to strengthen self discipline of court employees, and help them defend against solicitation and inducements, which promotes not only fairness and non-corrupt practice but also the self-protection of the case handling officers and clerks.

- 申请执行人不配合作为撤回申请处理（来源：人民法院报，2011 年 2 月 26 日）

An application for enforcement is deemed withdrawn in case of non-cooperation of the applicant (Source: People's Court Daily, 26 February 2011)

北京市海淀区人民法院执行一起房产合同纠纷案，由于申请执行人拒绝提供房屋原始买卖协议，致使执行工作难以继续。法院最终裁定该案按申请执行人撤回执行处理，终结执行。

In a property contract dispute case before Beijing Haidian District People's Court, the **applicant refused to provide the original sales agreement for the house, which made the** enforcement difficult to proceed. The court ultimately ruled that the case be deemed as withdrawn by the applicant, and enforcement proceedings in the case were terminated.

- 北京市石景山法院实行主审法官责任制（来源：人民法院报，2011 年 2 月 26 日）

Beijing Shijingshan Court implements a system of presiding judge accountability (source: People's Court Daily, 26 February 2011)

"主审法官一名，配备若干审判人员，组成一个审判单元，审判单元的成员在主审法官的指导下开展工作，协助主审法官审理各类案件。主审法官在单元内对案件的审理质量、效率、效果全权负责，并对单元内审判工作之外的其他各项事务担当责任。"

这是北京市石景山区人民法院审判改革中推出的主审法官负责制的核心内容。今后，凡在该院审理的案件，都将被贴上“质量认证”标签，主审法官是第一责任人。

“There will be one presiding judge, assisted by several judges, who together form a trial unit. The members of the trial unit work under the guidance of the presiding judge and assist the presiding judge in the trial of various cases. The presiding judge has full responsibility for the quality, efficiency and effect of the trial within the unit, as well as all other matters other than the trial work”. The above constitutes the core elements of the presiding judge accountability system adopted by Beijing Shijingshan District People’s Court in its trial reform. In the future, all cases before this court will be identified with a “quality certified” label, and the presiding judge will be the person with the primary responsibility.

- 北京法院首次对“老外”限制高消费（来源：人民法院报，2011 年 4 月 14 日）

A people’s court in Beijing becomes the first to impose spending limits on a “foreigner” (Source: People's Court Daily, 14 April 2011)

日前，北京市大兴区人民法院以创新执行方式为切入点，在一起涉外执行案件中，对日籍被执行人采取限制出境、限制高消费的“两限”措施。该案是北京法院首次根据最高人民法院出台的《关于限制被执行人高消费的若干规定》对外籍人士采取限制高消费的措施。

Some days ago, Beijing Daxing District People’s Court took innovative enforcement measures by imposing exit restrictions and spending limits on a Japanese against whom enforcement is sought in a foreign related enforcement case. This is the first case where a court in Beijing imposed spending limits on a foreigner according to the Several Regulations of the Supreme People’s Court on Imposing Spending Limits over Persons against whom Enforcement is being sought.

- 最高人民法院发布《中国法院知识产权司法保护状况（2010 年）》白皮书（来源：人民法院报，2011 年 4 月 19 日）

The Supreme People’s Court releases a white paper on the status of judicial protection of IPR s by people’s courts (2010) (Source: People's Court Daily, 19 April 2011)

最高人民法院向社会发布《中国法院知识产权司法保护状况（2010 年）》白皮书，该书全面回顾总结了人民法院 2010 年的知识产权司法保护工作，充分展示了人民法院知识产权司法保护工作取得的成就。

The Supreme People’s Court released to the public a white paper on the status of judicial protection of IPRs by people’s courts, which provides a review of the judicial protection of IPRs by the people’s courts in 2010, and a full presentation of the courts’ achievements in IPR protection.

- 北京规范特许经营合同纠纷审理（来源：人民法院报，2011 年 4 月 25 日）

Beijing standardizes trial of disputes related to franchise agreements (Source: People's Court Daily, 25 April 2011)

日前，北京市高级人民法院制定下发了《关于审理商业特许经营合同纠纷案件适用法律若干问题的指导意见》，这是我国法院首次针对特许经营合同纠纷案件制定规范性意见。

Some days ago, Beijing Higher People's Court released its Guideline regarding Several Issues concerning the Application of Laws in the Trial of Disputes related to Business Franchise Agreements, the first of such kind by a people's court in connection with disputes related to franchise agreements.

- 北京二十项措施重拳打击规避执行（来源：人民法院报，2011 年 4 月 30 日）

Beijing unveils twenty measures to fight against avoidance of enforcement (Source: People's Court Daily, 30 April 2011)

4 月 29 日，北京市高级人民法院对外公布了二十项反规避执行措施，开始重拳出击各种逃避执行行为。

On April 29, Beijing Higher People's Court announced twenty measures aimed against avoidance of enforcement, starting off a round of heavy blows against avoidance of enforcement.

- 最高人民法院公布 2011 年国家赔偿标准（来源：人民法院报，2011 年 5 月 5 日）

The Supreme People's Court releases the state compensation standards for 2011 (Source: People's Court Daily, 5 May 2011)

5 月 4 日，最高人民法院下发通知，公布了 2011 年作出国家赔偿决定涉及的侵犯公民人身自由权的赔偿标准，具体数额为每日 142.33 元。

On May 4, the Supreme People's Court issued a notice regarding the compensation standards for infringement of personal freedom of citizens under state compensation rulings, and specific daily compensation is set at RMB 142.33.

- 北京高院规范适用司法拘留措施（来源：人民法院报，2011 年 5 月 5 日）

Beijing Higher People's Court standardizes the application of judicial detention measures (Source: People's Court Daily, 5 May 2011)

5 月 4 日,北京市高级人民法院出台了《关于适用司法拘留措施的若干规定》，首次对司法拘留措施的适用进行全面规范，依法维护诉讼执行工作秩序，充分保障当事人及第三人的合法权益，对司法实践具有重要的指导意义。

On May 4, Beijing Higher People's Court releases Several Regulations regarding Application of Judicial Detention Measures. This is the first time the Court took steps to generally standardize the application of judicial detention, in an effort to duly maintain the

orderly enforcement of litigation proceedings, and to adequately safeguard the legitimate interests of the parties and third parties. This release is of instructive significance for the judicial practice.

- **北京高院四项制度创新审判管理（来源：人民法院报，2011 年 5 月 18 日）**

Beijing Higher People's Court unveils four innovative rules related to trial administration (Source: People's Court Daily, 18 May 2011)

5 月 18 日，北京市高级人民法院印发了《关于进一步落实审判、执行重要程序事项告知制度的规定》、《关于公开通报审判质量重要评估指标的规定》等四项审判管理制度，要求将重要程序事项同步告知当事人，定期公开通报审判质量、效率重要评估指标排名，严格审限管理，规范司法统计指标电子数据。

On May 18, Beijing Higher People's Court printed and distributed four rules regarding trial administration, including Rules Regarding Further Implementation of the Notification Requirements for Important Procedural Matters in the Trial and Enforcement Proceedings, and Rules regarding Public Release of Major Appraisal Indicators for Trial Quality. The Rules require that important procedural matters be notified to the parties in parallel, periodical public notification of the ranking of important appraisal indicators for trial quality and efficiency, tightened management of trial deadlines, and standardization of electronic data for judicial statistics.

- **最高人民法院公布 2010 年度工作报告（来源：最高人民法院，2011 年 5 月 26 日）**

The Supreme People's Court Issues 2010 Annual Report (Source: Supreme People's Court, 26 May 2011)

最高人民法院发布《人民法院工作年度报告（2010 年）》，对审判执行、法院管理、改革发展等方面的内容做出总结。

The Supreme People's Court (SPC) released the People's Court Annual Report (2010), which concludes the work in judgment execution, court administration, reform and development of the people's court in 2010.

2010 年，全国法院共审结民商事案件 6112695 件，诉讼标的额达 9137.25 亿元。

During 2010, the people's courts across the country have closed 6112695 pieces of civil and commercial cases altogether, with total volume of objects of action reaching RMB 913.72 billion.

2010 年，全国地方各级人民法院共新收知识产权民事一审案件 42931 件，同比增长 40.18%。

During 2010, the local people's courts at all levels across the country have newly accepted 42931 pieces of intellectual property civil lawsuits of first instance, increasing by 40.18% compared with the same period of the previous year.

2010 年，全国各级人民法院审结各类涉外、涉港澳台民商事及海事案件 41874 件，同比基本持平；其中，审结涉外、涉港澳台案件 33333 件，同比上升 5.66%，各级人民法院审结各类涉外民商事案件 14478 件，同比上升 6.17%。其中，审结涉外合同纠纷案件 5007 件，涉外权属、侵权纠纷及其他民事纠纷案件 5442 件，办理申请承认与执行外国法院民商事判决案件 2120 件。

During 2010, people's courts at all levels across the country have concluded various kinds of foreign-related, Hong Kong, Macao, or Taiwan related civil and commercial cases, and maritime cases, altogether 41874 pieces, equal to the same period of the previous year. Among others, 33333 foreign-related and Hong Kong, Macao, or Taiwan-related cases, have been closed, increasing by 5.66% compared to the same period of the previous year. The people's courts at all levels have concluded various kinds of foreign-related civil and commercial cases, altogether 11478 pieces, increasing by 6.17% compared to the same period of the previous year. Among others, 5007 pieces of foreign-related contracts disputes, 5442 pieces of foreign-related property, tort and other civil disputes have been closed. 2120 pieces of cases for application of acknowledgement and execution of civil and commercial judgments from foreign courts have been handled.

刑事审判工作中，依法惩治商业贿赂犯罪，对发生在经济社会建设重点领域、重点行业的严重商业贿赂犯罪，依法从严惩处。

During the criminal trial, the commercial bribery crimes were published in accordance with the law. The severe commercial bribery crimes which occurred in important sectors of economic and social construction, important industry, have been stringently published in accordance with the law.

此外，报告指出人民法院应加强对死刑适用的指导，统一死刑适用尺度。人民法院对于不是必须判处死刑立即执行的，均依法判处死刑缓期二年执行。

In addition, the annual report points out that the people's court shall strengthen the guidance for death penalty applications and unify application standards thereof. In the case that it is not necessary to impose the death penalty with immediate execution, the people's court will impose a death sentence with two years' suspension of execution.

- **最高人民法院公布五起涉毒犯罪典型案例（来源：人民法院报，2011 年 6 月 22 日）**

The Supreme People’s Court releases five typical cases involving drug-related crimes (Source: People's Court Daily, 22 June 2011)

在 6·26 国际禁毒日即将到来之际，最高人民法院公布了 4 起吸毒诱发的严重犯罪案例和 1 起未成年人贩卖毒品犯罪案例,以进一步依法打击和遏制毒品犯罪。

On the eve of the International Day against Drug Abuse and Illicit Trafficking on June 26, the Supreme People’s Court releases a collection of 4 criminal cases caused due to drug abuse, and 1 criminal case involving drug trafficking by minors, in order to further fight against and prevent drug related crimes.

仲裁动态
ARBITRATION DEVELOPMENTS

- **香港新仲裁条例六月生效（来源：中国国际经济贸易仲裁委员会，2011 年 3 月 4 日）**

  Hong Kong Arbitration Ordinance to be effective from June (source: China International Economic and Trade Arbitration Commission, 4 March 2011)

香港律政司于 2011 年 3 月 4 日刊宪，公告新《仲裁条例》（"《条例》"）于 6 月 1 日起生效。2010 年 11 月颁布的新《仲裁条例》更便于当事人使用，有助在香港进行仲裁程序，并进一步推广香港作为区域性解决争议中心。

The Department of Justice, HKSAR gazette the new Arbitration Ordinance ("Ordinance") on 4 March 2011, which will come into operation on June 1. Enacted last November, the new Ordinance is more user-friendly. It is to facilitate the conduct of arbitration proceedings in Hong Kong and further promote Hong Kong as a regional centre for dispute resolution.

《条例》涵盖进行仲裁时的程序、仲裁庭下达的临时措施和初步命令及仲裁裁决的执行；亦载有"供选用的"条文，让使用仲裁服务的人得以继续使用现行条例中只适用于本地仲裁的某些条文。

The new Ordinance covers procedural rules in respect of the conduct of arbitral proceedings, interim measures and preliminary orders to be made by arbitral tribunals and the enforcement of arbitral awards. There are "opt-in" provisions that allow arbitration users to continue to use certain provisions that apply only to domestic arbitration under the current regime.

与现行制度比较，《条例》限制法院干预的机会，让以仲裁解决争议的各方有更大的自主权。

Compared with the current Ordinance, the new one also limits the opportunities for judicial intervention and promotes greater parties' autonomy on the resolution of disputes by arbitration.

为了提高国际仲裁的保密性，除法庭另有规定外，有关仲裁的法院聆讯会以非公开聆讯方式进行，除非各方另有协议或在《条例》许可的特殊情况。

To enhance the confidentiality of international arbitration, the ordinance provides that unless the court otherwise orders, proceedings relating to arbitration are not to be heard in open court.

- **中国标准新造船合同单行本正式发行（来源：中国国际经济贸易仲裁委员会, 2011 年 3 月 17 日）**

  Official release of China Standard New Shipbuilding Contract in a Single Volume

DACHENG LAW OFFICES
大成律师事务所

Edition (source: China International Economic and Trade Arbitration Commission，17 March 2011)

中国海事仲裁委员会标准新造船合同（上海格式）单行本于 2011 年 3 月 17 日在“标准造船合同推介研讨会暨上海海事沙龙”上正式发行。“上海格式”于 2011 年 3 月 1 日起施行。

The CMAC Standard New Shipbuilding Contract (Shanghai Form) was officially released in a single volume edition on March 17, 2011 at the Standard Shipbuilding Contract Promotion Seminar and Shanghai Maritime Salon. The Shanghai Form became effective on March 1, 2011.

在欧美日等规则标准强势盛行的造船航运业，“上海格式”首次赢得了中国的话语权。(《人民日报》（海外版）2011 年 1 月 10 日）

In the shipbuilding industry predominated by European, American, Japanese and other standards, the Shanghai form wins a say for China for the first time. (China Daily, overseas edition, January 10, 2011)

- 中国仲裁日活动在德国汉堡成功举行（来源：中国国际经济贸易仲裁委员会, 2011 年 5 月 20 日）

China Arbitration Day Activities conclude in Hamburg, Germany with success (source: China International Economic and Trade Arbitration Commission，20 May 2011)

2011 年 5 月 20 日，贸仲委副秘书长李虎率贸仲、海仲代表团参加了由贸仲（CIETAC）、海仲（CMAC）及中欧仲裁中心在德国汉堡联合举办的“中国仲裁日（China Arbitration Day ）——商事仲裁及海事仲裁研讨会”。来自德国、法国及意大利等欧洲国家的法律届、工商界八十余人参加了当天的会议。

On May 20, 2011, led by Li Hu, deputy secretary general of China International Economic and Trade Arbitration Commission (“CIETAC”), a delegation consisting of representatives from CIETAC and the China Maritime Arbitration Commission (“CMAC”) attended the China Arbitration Day ——Commercial Arbitration and Maritime Arbitration Seminar in Hamburg Germany jointly organized by CIETAC, CMAC and Chinese-European Arbitration Center. Over 80 delegates from the legal circles and the business circles of Germany, France, Italy and other European countries attended the day’s event.

法规全文精选
Full Version of Selected Legislation

最高人民法院关于适用《中华人民共和国公司法》若干问题的规定（三）

Provisions of the Supreme People's Court on Several Issues concerning the Application of the Company Law of the People's Republic of China (III)

生效日期：2011 年 02 月 16 日

Effective Date: 16-02-2011

为正确适用《中华人民共和国公司法》，结合审判实践，就人民法院审理公司设立、出资、股权确认等纠纷案件适用法律问题作出如下规定。

To correctly apply the Company Law of the People's Republic of China, and in light of the trial practice, some provisions have been formulated as follows on the application of law by the people's courts in the hearing of disputes over the establishment of companies, capital contributions, confirmation of equities, etc.:

第一条　为设立公司而签署公司章程、向公司认购出资或者股份并履行公司设立职责的人，应当认定为公司的发起人，包括有限责任公司设立时的股东。

Article 1 Whoever concludes the articles of association for the purpose of establishing a company, subscribes to capital contributions or shares and performs the duties of establishing the company shall be deemed as a promoter of the company, including the shareholders at the time of establishment of a limited liability company.

第二条　发起人为设立公司以自己名义对外签订合同，合同相对人请求该发起人承担合同责任的，人民法院应予支持。

Article 2 Where a promoter concludes a contract with anyone else in his own name for the purpose of establishing a company, if that person claims that the promoter shall bear contractual liabilities, the people's court shall support such claim.

公司成立后对前款规定的合同予以确认，或者已经实际享有合同权利或者履行合同义务，合同相对人请求公司承担合同责任的，人民法院应予支持。

Where the contract as prescribed in the preceding paragraph is confirmed after the company is established, or the contractual rights have been actually enjoyed or the contractual obligations have been actually performed, if the other party to the contract claims that the company shall bear contractual liabilities, the people's court shall support such claim.

第三条　发起人以设立中公司名义对外签订合同，公司成立后合同相对人请求公司承担合同责任的，人民法院应予支持。

Article 3 Where a promoter concludes a contract with anyone else in the name of a company being established, if, after the company is established, the other party to the contract claims that the company shall bear contractual liabilities, the people's court shall support such claim.

公司成立后有证据证明发起人利用设立中公司的名义为自己的利益与相对人签订合

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同，公司以此为由主张不承担合同责任的，人民法院应予支持，但相对人为善意的除外。

Where, after a company is established, there is evidence to prove that the promoter has concluded a contract with anyone else in the name of the company being established for his own interest, if the company claims on this ground that it shall not bear contractual liabilities, the people's court shall support such claim except that the other party concluded the contract for good faith.

第四条　公司因故未成立，债权人请求全体或者部分发起人对设立公司行为所产生的费用和债务承担连带清偿责任的，人民法院应予支持。

Article 4 Where a company fails to be established for some reason, if the creditors claim that all or some promoters shall assume joint and several liabilities for the costs and debts incurred from the establishment of the company, the people's court shall support such claim.

部分发起人依照前款规定承担责任后，请求其他发起人分担的，人民法院应当判令其他发起人按照约定的责任承担比例分担责任；没有约定责任承担比例的，按照约定的出资比例分担责任；没有约定出资比例的，按照均等份额分担责任。

Where, after assuming liabilities according to the provisions in the preceding paragraph, some promoters claim that other promoters shall share the liabilities, the people's court shall order other promoters to share the liabilities according to the agreed accountability proportion; in the absence of an agreed accountability proportion, liabilities shall be shared according to the agreed proportion of capital contributions; and in the absence of an agreed proportion of capital contributions, liabilities shall be shared equally.

因部分发起人的过错导致公司未成立，其他发起人主张其承担设立行为所产生的费用和债务的，人民法院应当根据过错情况，确定过错一方的责任范围。

Where a company fails to be established due to the fault of some promoters, if other promoters claim that such promoters shall assume the costs and debts incurred from the establishment, the people's court shall, according to the fault, determine the scope of responsibilities of the party in fault.

第五条　发起人因履行公司设立职责造成他人损害，公司成立后受害人请求公司承担侵权赔偿责任的，人民法院应予支持；公司未成立，受害人请求全体发起人承担连带赔偿责任的，人民法院应予支持。

Article 5 Where a promoter causes any harm to anyone else due to performance of the duty of establishing the company, if, after the establishment of the company, the victim claims that the company shall bear the compensation liability for tort, the people's court shall support such claim If the company fails to be established, and the victim claims that all the promoters shall bear joint and several liabilities, the people's court shall support such claim.

公司或者无过错的发起人承担赔偿责任后，可以向有过错的发起人追偿。

The company or the promoters not in fault may, after making compensations, recourse against the promoters in fault.

第六条　股份有限公司的认股人未按期缴纳所认股份的股款，经公司发起人催缴后在合理期间内仍未缴纳，公司发起人对该股份另行募集的，人民法院应当认定该募集行为有效。认股人延期缴纳股款给公司造成损失，公司请求该认股人承担赔偿责任的，人民法院应予支持。

Article 6 Where a subscriber of a joint stock limited company fails to make payments for the shares he has subscribed to on schedule, and still fails to pay within a reasonable period after being urged by the promoters of the company, if the promoters of the company raised funds for such shares from other sources, the people's court shall determine the fund raising as valid. Where a subscriber causes any loss to the company due to his delayed payment for the shares, if the company claims that the subscriber shall make compensation, the people's court shall support such claim.

第七条　出资人以不享有处分权的财产出资，当事人之间对于出资行为效力产生争议的，人民法院可以参照物权法第一百零六条的规定予以认定。

Article 7 Where a capital contributor makes capital contributions with anything that he has the right to dispose of, if there arises any dispute over the validity of the act of capital contribution, the people's court may determine the validity in accordance with Article 106 of the Real Right Law.

以贪污、受贿、侵占、挪用等违法犯罪所得的货币出资后取得股权的，对违法犯罪行为予以追究、处罚时，应当采取拍卖或者变卖的方式处置其股权。

Where the equity shares are obtained through monetary contributions which are derived from such violations of law or crimes as corruption, bribery, embezzlement and misappropriation, the people's court shall, when investigating and punishing the illegal and criminal acts, dispose of the equity shares by means of auction or sale.

第八条　出资人以划拨土地使用权出资，或者以设定权利负担的土地使用权出资，公司、其他股东或者公司债权人主张认定出资人未履行出资义务的，人民法院应当责令当事人在指定的合理期间内办理土地变更手续或者解除权利负担；逾期未办理或者未解除的，人民法院应当认定出资人未依法全面履行出资义务。

Article 8 Where a capital contributor makes capital contribution with the right to use allocated land or the right to use the land on which encumbrance is set up, if the company, any other shareholder or the creditor of the company claims that the capital contributor has failed to fulfill his obligation of capital contribution, the people's court shall order the party to change the title of land or lift the encumbrance within a specified reasonable time limit; and if the party fails to do so within the prescribed time limit, the people's court shall determine that the contributor has failed to fully perform the obligation of capital contribution according to law.

第九条　出资人以非货币财产出资，未依法评估作价，公司、其他股东或者公司债权人请求认定出资人未履行出资义务的，人民法院应当委托具有合法资格的评估机构对该财产评估作价。评估确定的价额显著低于公司章程所定价额的，人民法院应当认定出资人未依法全面履行出资义务。

Article 9 Where a capital contributor makes capital contributions with non-monetary property which is not evaluated according to law, if the company, any other shareholder or the creditor of the company claims that the capital contributor has failed to fulfill the obligation of capital contribution, the people's court shall authorize a legally qualified evaluation institution to evaluate the property. If the price determined through evaluation is significantly lower than the price as fixed in the articles of association, the people's court shall determine that the capital contributor has failed to fully perform the obligation of capital contribution according to law.

第十条　出资人以房屋、土地使用权或者需要办理权属登记的知识产权等财产出资，已经交付公司使用但未办理权属变更手续，公司、其他股东或者公司债权人主张认定出资人未履行出资义务的，人民法院应当责令当事人在指定的合理期间内办理权属变更手续；在前述期间内办理了权属变更手续的，人民法院应当认定其已经履行了出资义务；出资人主张自其实际交付财产给公司使用时享有相应股东权利的，人民法院应予支持。

Article 10 Where a capital contributor makes capital contributions with such property as real estate, land use right or intellectual property right for which title registration needs to be handled, which has been delivered to the company for use but the formalities for title transfer have not been handled, if the company, any other shareholder or the creditor of the company claims that the capital contributor has failed to fulfill the obligation of capital contribution, the people's court shall order the party to transfer the title within a specified reasonable period; if the capital contributor transfers the title within the aforesaid period, the people's court shall determine that he has fulfilled the obligation of capital contribution; and if the capital contributor claims to enjoy the corresponding shareholders' rights since his actual delivery of property to the company for use, the people's court shall support such claim.

出资人以前款规定的财产出资，已经办理权属变更手续但未交付给公司使用，公司或者其他股东主张其向公司交付、并在实际交付之前不享有相应股东权利的，人民法院应予支持。

Where a capital contributor makes capital contributions with a property as prescribed in the preceding paragraph, and has transferred the title but has not delivered it to the company for use, if the company or any other shareholder claims that the capital contributor shall deliver the property to the company and shall not enjoy the corresponding shareholders' rights prior to the actual delivery, the people's court shall support such claim.

第十一条　出资人以其他公司股权出资，符合下列条件的，人民法院应当认定出资人已履行出资义务：

Article 11 Where a capital contributor makes his capital contribution with the equity of another company, the people's court shall determine that the capital contributor has fulfilled the obligation of capital contribution if the following conditions are met:

（一）出资的股权由出资人合法持有并依法可以转让；

(1) The equity contributed is legally held by the capital contributor and can be transferred according to law;

（二）出资的股权无权利瑕疵或者权利负担；

(2) The equity contributed is free of right-related flaws or encumbrance;

（三）出资人已履行关于股权转让的法定手续；

(3) The capital contributor has gone through the statutory formalities for equity transfer; and

（四）出资的股权已依法进行了价值评估。

(4) The equity contributed has been evaluated according to law.

股权出资不符合前款第（一）、（二）、（三）项的规定，公司、其他股东或者公司债权人请求认定出资人未履行出资义务的，人民法院应当责令该出资人在指定的合理期间内采取补正措施，以符合上述条件；逾期未补正的，人民法院应当认定其未依法全面履行出资义务。

Where the contributed equity does not conform to the provisions as set forth in Items (1), (2) and (3) of the preceding paragraph, and the company, any other shareholder or the creditor of the company claims that the capital contributor has failed to fulfill the obligation of capital contribution, the people’s court shall order the capital contributor to make rectifications within a specified reasonable period to meet the aforesaid conditions; and if the capital contributor fails to make rectifications within the prescribed time limit, the people’s court shall determine that he has failed to fully fulfill the obligation of capital contribution according to law.

股权出资不符合本条第一款第（四）项的规定，公司、其他股东或者公司债权人请求认定出资人未履行出资义务的，人民法院应当按照本规定第九条的规定处理。

Where the contributed equity does not conform to the provisions as set forth in Item (4) of the first paragraph of this Article, if the company, any other shareholder or the creditor of the company claims that the capital contributor has failed to fulfill the obligation of capital contribution, the people’s court shall handle it according to Article 9 of these Provisions.

第十二条　公司成立后，公司、股东或者公司债权人以相关股东的行为符合下列情形之一且损害公司权益为由，请求认定该股东抽逃出资的，人民法院应予支持：

Article 12 Where, after a company is established, the company, any shareholder or the creditor of the company claims that a shareholder has withdrawn the contributed capital on the ground that the act of the shareholder falls under any of the following circumstances and has damaged the rights and interests of the company, the people’s court shall support such claim:

（一）将出资款项转入公司账户验资后又转出；

(1) Transferring the contributed capital into the company’s account and taking the capital out after capital verification;

（二）通过虚构债权债务关系将其出资转出；

(2) Taking out the contributed capital through fabricating claims and liabilities;

（三）制作虚假财务会计报表虚增利润进行分配；

(3) Making false financial statements and distributing inflated profits arising therefrom;

（四）利用关联交易将出资转出；

(4) Transferring the contributed capital out through making use of affiliated transactions; or

（五）其他未经法定程序将出资抽回的行为。

(5) Other acts of withdrawing the contributed capital without statutory procedures.

第十三条　股东未履行或者未全面履行出资义务，公司或者其他股东请求其向公司依法全面履行出资义务的，人民法院应予支持。

Article 13 Where a shareholder fails to fulfill or fails to fully fulfill the obligation of capital contribution, if the company or any other shareholder claims that he shall fully fulfill the obligation of capital contribution to the company according to law, the people’s court shall support such claim.

公司债权人请求未履行或者未全面履行出资义务的股东在未出资本息范围内对公司债务不能清偿的部分承担补充赔偿责任的，人民法院应予支持；未履行或者未全面履行出资义务的股东已经承担上述责任，其他债权人提出相同请求的，人民法院不予支持。

Where the creditor of the company claims that the shareholder who has failed to fulfill or to fully fulfill the obligation of capital contribution shall assume supplementary compensation liability for the debts of the company that cannot be cleared to the extent of the principal and interest on the capital not contributed, the people’s court shall support such claim; and where the shareholder who failed to fulfill or failed to fully fulfill the obligation of capital contribution has assumed the aforesaid liabilities, if any other creditor makes the same claim, the people’s court shall not support it.

股东在公司设立时未履行或者未全面履行出资义务，依照本条第一款或者第二款提起诉讼的原告，请求公司的发起人与被告股东承担连带责任的，人民法院应予支持；公司的发起人承担责任后，可以向被告股东追偿。

Where a shareholder fails to fulfill or fails to fully fulfill the obligation of capital contribution at the time of establishment of the company, if the plaintiff who initiates a lawsuit according to paragraph 1 or 2 of this Article claims that the promoters of the company and the defendant shareholder shall bear joint and several liabilities, the people’s court shall support such claim; and the promoters of the company may recourse against the defendant shareholder after they have assumed the liabilities.

股东在公司增资时未履行或者未全面履行出资义务，依照本条第一款或者第二款提起诉讼的原告，请求未尽公司法第一百四十八条第一款规定的义务而使出资未缴足的董事、高级管理人员承担相应责任的，人民法院应予支持；董事、高级管理人员承担责任后，可以向被告股东追偿。

Where any shareholder fails to fulfill or fully fulfill the obligation of capital contribution at

the time of capital increase, if the plaintiff initiating a lawsuit in accordance with paragraph 1 or 2 of this Article claims that the directors or senior managers who fail to fulfill the obligations as prescribed in paragraph 1 of Article 148 of the Company Law and thereby cause the failure to make capital contributions in full amount shall assume the corresponding liabilities, the people's court shall support such claim; and the directors or senior managers may, after assuming the liabilities, recourse against the defendant shareholder.

第十四条　股东抽逃出资，公司或者其他股东请求其向公司返还出资本息、协助抽逃出资的其他股东、董事、高级管理人员或者实际控制人对此承担连带责任的，人民法院应予支持。

Article 14 Where any shareholder withdraws any contributed capital, if the company or any other shareholder claims that he shall refund the principal and interest on the contributed capital to the company and the other shareholders, directors, senior managers or actual controllers providing assistance in withdrawing the contributed capital shall assume joint and several liabilities, the people's court shall support such claim.

公司债权人请求抽逃出资的股东在抽逃出资本息范围内对公司债务不能清偿的部分承担补充赔偿责任、协助抽逃出资的其他股东、董事、高级管理人员或者实际控制人对此承担连带责任的，人民法院应予支持；抽逃出资的股东已经承担上述责任，其他债权人提出相同请求的，人民法院不予支持。

Where the creditors of the company claim that the shareholder who withdraws any contributed capital shall assume supplementary compensation liability for the debts of the company that cannot be cleared to the extent of the principal and interest on the capital contributions that have been withdrawn, and other shareholders, directors, senior managers or actual controllers providing assistance in withdrawing the contributed capital shall assume joint and several liabilities, the people's court shall support such claim; and where the shareholder who withdrew the contributed capital has assumed the aforesaid liabilities, if other creditors make the same claim, the people's court shall not support such claim.

第十五条　第三人代垫资金协助发起人设立公司，双方明确约定在公司验资后或者在公司成立后将该发起人的出资抽回以偿还该第三人，发起人依照前述约定抽回出资偿还第三人后又不能补足出资，相关权利人请求第三人连带承担发起人因抽回出资而产生的相应责任的，人民法院应予支持。

Article 15 Where a third party advances funds for a promoter to assist him to establish a company, and both parties clearly agreed that the capital contributed by the promoter shall be withdrawn after capital verification or establishment of the company to repay the third party, and the promoter can not make up the capital contribution after withdrawing the contributed capital according to the aforementioned agreement, if the relevant obligees claim that the third party shall be jointly and severally liable for the corresponding liabilities of the promoter that are generated from the withdrawal of the contributed capital, the people's court shall support such claim.

第十六条　出资人以符合法定条件的非货币财产出资后，因市场变化或者其他客观因

素导致出资财产贬值，公司、其他股东或者公司债权人请求该出资人承担补足出资责任的，人民法院不予支持。但是，当事人另有约定的除外。

Article 16 Where, after a capital contributor makes his capital contribution with non-monetary property that meet the statutory requirements, and the contributed property is devaluated due to changes in the market or other objective factors, if the company, any other shareholder or the creditor of the company claims that the capital contributor shall make up the difference, the people's court shall not support such claim, unless it is otherwise agreed to by the parties concerned.

第十七条　股东未履行或者未全面履行出资义务或者抽逃出资，公司根据公司章程或者股东会决议对其利润分配请求权、新股优先认购权、剩余财产分配请求权等股东权利作出相应的合理限制，该股东请求认定该限制无效的，人民法院不予支持。

Article 17 Where a shareholder fails to fulfill or fails to fully fulfill the obligation of capital contribution or withdraws the contributed capital, and the company shall, according the articles of association or resolution of the shareholders' meeting, impose corresponding reasonable restrictions on the shareholders' rights of the shareholder, such as profit distribution, the preemptive right to subscribe to new shares and the right to distribution of residual properties, if the shareholder claims the restrictions as invalid, the people's court shall not support such claim.

第十八条　有限责任公司的股东未履行出资义务或者抽逃全部出资，经公司催告缴纳或者返还，其在合理期间内仍未缴纳或者返还出资，公司以股东会决议解除该股东的股东资格，该股东请求确认该解除行为无效的，人民法院不予支持。

Article 18 Where a shareholder of a limited liability company has failed to fulfill the obligation of capital contribution or withdraws all the capital he has contributed, and still fails to pay or refund the capital contributions within a reasonable period after being notified by the company, and the company disqualifies him as a shareholder through a resolution of the shareholders' meeting, if the shareholder claims the disqualification as invalid, the people's court shall not support such claim.

在前款规定的情形下，人民法院在判决时应当释明，公司应当及时办理法定减资程序或者由其他股东或者第三人缴纳相应的出资。在办理法定减资程序或者其他股东或者第三人缴纳相应的出资之前，公司债权人依照本规定第十三条或者第十四条请求相关当事人承担相应责任的，人民法院应予支持。

Under the circumstance as set forth in the preceding paragraph, the people's court shall clearly explain at the time of judgment that the company shall timely handle the statutory procedures for capital decrease, otherwise the corresponding capital contributions shall be paid by other shareholders or a third party. If, before the statutory procedures for capital decrease is handled or before the payment of the corresponding capital contributions by other shareholders or a third party, the creditor of the company claims, according to Article 13 or 14 of these Provisions, that the relevant party shall assume the corresponding liabilities, the people's court shall support such claim.

第十九条　有限责任公司的股东未履行或者未全面履行出资义务即转让股权，受让人

对此知道或者应当知道，公司请求该股东履行出资义务、受让人对此承担连带责任的，人民法院应予支持；公司债权人依照本规定第十三条第二款向该股东提起诉讼，同时请求前述受让人对此承担连带责任的，人民法院应予支持。

Article 19 Where a shareholder of a limited liability company fails to fulfill or fails to fully fulfill the obligation of capital contribution and transfers his equity shares to someone else, and the transferee knows or should have known this, if the company claims that the shareholder shall fulfill the obligation of capital contribution and the transferee shall assume joint and several liabilities for the transfer, the people's court shall support such claim; and if the creditor of the company initiates a lawsuit against the shareholder according to paragraph 2 of Article 13 of these Provisions, and simultaneously claims that the aforesaid transferee shall assume joint and several liabilities for this, the people's court shall support such claim.

受让人根据前款规定承担责任后，向该未履行或者未全面履行出资义务的股东追偿的，人民法院应予支持。但是，当事人另有约定的除外。

If, after assuming liabilities according to the preceding paragraph, the transferee recourses against the shareholder who fails to fulfill or fails to fully fulfill the obligation of capital contribution, the people's court shall support it, unless it is otherwise agreed to by the parties concerned.

第二十条　公司股东未履行或者未全面履行出资义务或者抽逃出资，公司或者其他股东请求其向公司全面履行出资义务或者返还出资，被告股东以诉讼时效为由进行抗辩的，人民法院不予支持。

Article 20 Where a shareholder of a company fails to fulfill or fails to fully fulfill the obligation of capital contribution or withdraws the contributed capital, and the company or any other shareholder claims that he shall fully fulfill the obligation of capital contribution or refund the contributed capital, if the defendant shareholder raises a defense on the ground of the statute of limitations, the people's court shall not support such defense.

公司债权人的债权未过诉讼时效期间，其依照本规定第十三条第二款、第十四条第二款的规定请求未履行或者未全面履行出资义务或者抽逃出资的股东承担赔偿责任，被告股东以出资义务或者返还出资义务超过诉讼时效期间为由进行抗辩的，人民法院不予支持。

Where, according to paragraph 2 of Article 13 or paragraph 2 of Article 14 of these Provisions, a creditor of the company whose creditor's rights have not exceeded the statute of limitations claims that the shareholder who fails to fulfill or fails to fully fulfill the obligation of capital contribution or withdraws the capital he has contributed shall assume compensation liability, if the defendant shareholder raises a defense on the ground that the obligation of capital contribution or the obligation to refund the contributed capital has exceeded the statute of limitations, the people's court shall not support such defense.

第二十一条　当事人之间对是否已履行出资义务发生争议，原告提供对股东履行出资义务产生合理怀疑证据的，被告股东应当就其已履行出资义务承担举证责任。

Article 21 Where there arises any dispute between the parties over whether the obligation

of capital contribution has been fulfilled, if the plaintiff provides evidence for casting reasonable doubt on the shareholder's fulfillment of the obligation of capital contribution, the defendant shareholder shall bear the burden to prove that he has fulfilled the obligation of capital contribution.

第二十二条　当事人向人民法院起诉请求确认其股东资格的，应当以公司为被告，与案件争议股权有利害关系的人作为第三人参加诉讼。

Article 22 Where a party initiates a lawsuit in the people's court, pleading for confirming its shareholders' qualifications, the defendant shall be the company and the person has an interest in the equity under dispute in the case shall participate in the lawsuit as a third party.

第二十三条　当事人之间对股权归属发生争议，一方请求人民法院确认其享有股权的，应当证明以下事实之一：

Article 23 Where there arises any dispute between the parties over the ownership of the equity, if one party pleads with the people's court to confirm its right to the equity, it shall prove any of the following facts:

（一）已经依法向公司出资或者认缴出资，且不违反法律法规强制性规定；

(1) It has made or subscribed to capital contributions to the company according to law, which has not violated the mandatory provisions of laws and regulations; or

（二）已经受让或者以其他形式继受公司股权，且不违反法律法规强制性规定。

(2) It has accepted or succeeded the equity of the company in any other form, which has not violated the mandatory provisions of laws and regulations.

第二十四条　当事人依法履行出资义务或者依法继受取得股权后，公司未根据公司法第三十二条、第三十三条的规定签发出资证明书、记载于股东名册并办理公司登记机关登记，当事人请求公司履行上述义务的，人民法院应予支持。

Article 24 Where a party fulfills the obligation of capital contribution or succeeds to the equity according to law, but the company does not issue a capital contribution certificate, or record him in the roaster of shareholders and does not handle the registration formalities at the company registration authority according to Article 32 or Article 33 of the Company Law, if the party claims that the company shall fulfill the aforesaid obligations, the people's court shall support such claim.

第二十五条　有限责任公司的实际出资人与名义出资人订立合同，约定由实际出资人出资并享有投资权益，以名义出资人为名义股东，实际出资人与名义股东对该合同效力发生争议的，如无合同法第五十二条规定的情形，人民法院应当认定该合同有效。

Article 25 Where the actual contributor enters into an agreement with a nominal contributor of a limited liability company, which stipulates that the actual contributor shall make capital contributions and enjoy the investment rights and interests, and the nominal contributor shall be the nominal shareholder, and there arises any dispute between the actual contributor and the

nominal shareholder over the validity of the contract, if it does not fall into any of the circumstances as prescribed in Article 52 of the Contract Law, the people's court shall determine the contract valid.

前款规定的实际出资人与名义股东因投资权益的归属发生争议，实际出资人以其实际履行了出资义务为由向名义股东主张权利的，人民法院应予支持。名义股东以公司股东名册记载、公司登记机关登记为由否认实际出资人权利的，人民法院不予支持。

Where there arises any dispute between the actual contributor and the nominal shareholder as prescribed in the preceding paragraph over the ownership of the investment rights and interests, if the actual contributor claims right against the nominal shareholder on the ground that he has actually fulfilled the obligation of capital contribution, the people's court shall support such claim. If the nominal shareholder denies the rights of the actual contributor on the ground of the records in the roaster of shareholders of the company or registration at the company registration authority, the people's court shall not support such a denial.

实际出资人未经公司其他股东半数以上同意，请求公司变更股东、签发出资证明书、记载于股东名册、记载于公司章程并办理公司登记机关登记的，人民法院不予支持。

Where, without the consent of more than half of other shareholders of the company, the actual contributor requests the company to change the shareholder, issue a capital contribution certificate, record him in the roaster of shareholders, or record him in the articles of association and go through the registration formalities at the company registration authority, the people's court shall not support such a request.

第二十六条　名义股东将登记于其名下的股权转让、质押或者以其他方式处分，实际出资人以其对于股权享有实际权利为由，请求认定处分股权行为无效的，人民法院可以参照物权法第一百零六条的规定处理。

Article 26 Where a nominal shareholder transfers, pledges or disposes of in any other manner the equity registered under his name, if the actual contributor claims to determine the disposal of the equity invalid on the ground that he enjoys actual right to the equity, the people's court may handle the case according to Article 106 of the Real Right Law.

名义股东处分股权造成实际出资人损失，实际出资人请求名义股东承担赔偿责任的，人民法院应予支持。

Where the nominal shareholder has caused any loss to the actual contributor due to disposal of his equity, if the actual contributor claims that the nominal shareholder shall assume the compensation liability, the people's court shall support such claim.

第二十七条　公司债权人以登记于公司登记机关的股东未履行出资义务为由，请求其对公司债务不能清偿的部分在未出资本息范围内承担补充赔偿责任，股东以其仅为名义股东而非实际出资人为由进行抗辩的，人民法院不予支持。

Article 27 Where, on the ground that the shareholder registered in the company registration authority has failed to fulfill the obligation of capital contribution, and the creditor of the

company claims that the shareholder shall assume supplementary compensation liability for the debts of the company that cannot be cleared to the extent of the principal and interest on the capital not contributed, if the shareholder raises a defense on the ground that he is only a nominal shareholder rather than an actual contributor, the people's court shall not support such a defense.

名义股东根据前款规定承担赔偿责任后，向实际出资人追偿的，人民法院应予支持。

If, after assuming the compensation liability according to the preceding paragraph, the nominal shareholder recourses against the actual contributor, the people's court shall support it.

第二十八条　股权转让后尚未向公司登记机关办理变更登记，原股东将仍登记于其名下的股权转让、质押或者以其他方式处分，受让股东以其对于股权享有实际权利为由，请求认定处分股权行为无效的，人民法院可以参照物权法第一百零六条的规定处理。

Article 28 Where the modification registration has not yet been handled at the company registration authority after the transfer of equity, and the original shareholder transfers, pledges or disposes of in any other manner the equity which is still registered under his name, if the transferee shareholder claims the disposal of the equity as invalid on the ground that he enjoys actual right to the equity, the people's court may handle the case according to Article 106 of the Real Right Law.

原股东处分股权造成受让股东损失，受让股东请求原股东承担赔偿责任、对于未及时办理变更登记有过错的董事、高级管理人员或者实际控制人承担相应责任的，人民法院应予支持；受让股东对于未及时办理变更登记也有过错的，可以适当减轻上述董事、高级管理人员或者实际控制人的责任。

Where the original shareholder has caused any loss to the transferee shareholder due to the disposal of the equity, if the transferee shareholder claims that the original shareholder shall assume the compensation liability and the directors, senior managers or the actual controllers who were at fault in the failure to timely handle the modification registration shall assume the corresponding liabilities, the people's court shall support such claim; and if the transferee shareholder also was also at fault in the failure to timely handle the modification registration, the liabilities of the aforesaid directors, senior managers or actual controllers may be appropriately reduced.

第二十九条　冒用他人名义出资并将该他人作为股东在公司登记机关登记的，冒名登记行为人应当承担相应责任；公司、其他股东或者公司债权人以未履行出资义务为由，请求被冒名登记为股东的承担补足出资责任或者对公司债务不能清偿部分的赔偿责任的，人民法院不予支持。

Article 29 Whoever makes capital contributions by fraudulently using the name of anyone else and registers such person as a shareholder at the company registration authority shall assume the corresponding liabilities; and if, on the ground of failure to fulfill the obligation of capital contribution, the company, any other shareholder or the creditor of the company claims that the person who is registered as a shareholder with his name fraudulently used shall assume the liability to make up the difference in capital contributions or assume the compensation

liability for the debts of the company that cannot be cleared, the people's court shall not support such claim.

最高人民法院关于修改《民事案件案由规定》的决定
Decision on Amending the Provisions on the Cause of Action of Civil Cases

生效日期：2011 年 04 月 01 日

Effective Date: 01-04-2011

根据《中华人民共和国民法通则》、《中华人民共和国物权法》、《中华人民共和国合同法》、《中华人民共和国侵权责任法》和《中华人民共和国民事诉讼法》等法律规定，结合人民法院民事审判工作实际情况，对 2008 年 2 月 4 日制发的《民事案件案由规定》作如下修改：

In accordance with the General Principles of the Civil Law of the People's Republic of China, the Real Right Law of the People's Republic of China, the Contract Law of the People's Republic of China, the Tort Law of the People's Republic of China, the Civil Procedure Law of the People's Republic of China and other laws and in light of civil trial practices of people's courts, the Provisions on the Cause of Action of Civil Cases made and issued on February 4, 2008 are hereby amended as follows:

一、修改第一级案由 5 个：

I. Amending 5 level-1 causes of action:

1、增加“第九部分 侵权责任纠纷”。

1. Adding “Part IX Dispute over the Liability for Tort”.

2、删去“第八部分 与铁路运输有关的民事纠纷”。

2. Deleting “Part VIII Civil Dispute Relating to Railway Transport”.

3、变更“第四部分 债权纠纷”为“第四部分 合同、无因管理、不当得利纠纷”。

3. Changing “Part IV Dispute over Claim” into “Part IV Dispute over a Contract, Negotiorum Gestio or Ill-gotten Gains”.

4、变更“第五部分 知识产权纠纷”为“第五部分 知识产权与竞争纠纷”。

4. Changing “Part V Dispute over Intellectual Property Right” into “Part V Dispute over Intellectual Property Right or Competition”.

5、变更“第九部分 与公司、证券、票据等有关的民事纠纷”为“第八部分 与公司、证券、保险、票据等有关的民事纠纷”。

5. Changing “Part IX Civil Dispute Relating to a Company, Securities, Bills, etc.” into

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“Part VIII Civil Dispute Relating to a Company, Securities, Insurance, Bills, etc.”

二、修改第二级案由 20 个:

II. Amending 20 level-2 causes of action:

6、增加“二十七、保险纠纷”。

6. Adding “27. Insurance dispute”.

7、增加 “三十、侵权责任纠纷”。

7. Adding “30. Dispute over the liability for tort”.

8、增加“四十三、执行异议之诉”。

8. Adding “43. Lawsuit on objection to enforcement”.

9、删去“十一、特殊类型的侵权纠纷”。

9. Deleting “11. Dispute over tort of a special type”.

10、删去“二十、与铁路运输有关的民事纠纷”。

10. Deleting “20. Civil dispute relating to railway transport”.

11、变更“二十一、与合伙企业有关的纠纷”为“二十二、合伙企业纠纷”。

11. Changing “21. Dispute relating to a partnership enterprise” into “22. Dispute over a partnership enterprise”.

12、拆分“十六、不正当竞争、垄断纠纷”为“十五、不正当竞争纠纷”、“ 十六、垄断纠纷”。

12. Dividing “16. Dispute over unfair competition or monopoly” into “15. Dispute over unfair competition” and “16. Dispute over monopoly”.

13、拆分“三十、适用特殊程序案件”案由为“三十一、选民资格案件”、“三十二、宣告失踪、宣告死亡案件”、“三十三、认定公民无民事行为能力、限制民事行为能力案件”、“三十四、认定财产无主案件”、“三十五、监护权特别程序案件”、“三十六、督促程序案件”、“ 三十七、公示催告程序案件”、“三十八、申请诉前停止侵害知识产权案件”、“三十九、申请保全案件”、“四十、仲裁程序案件”、“四十一、海事诉讼特别程序案件”、“四十二、申请承认与执行法院判决、仲裁裁决案件”案由。

13. Dividing the cause of action of “30. Case to which a special procedure applies” into the causes of action of “31. Case on the qualification of voters”, “32. Case on the declaration of a person as missing or dead”, “33. Case on the determination of a citizen without civil conduct capacity or with limited civil conduct capacity”, “34. Case on the determination of a property as ownerless”, “35. Case on the special procedure of guardianship”, “36. Case on the prompting procedure”, “37. Case on the procedure of public summon”, “38. Case on the application for ceasing intellectual property infringements before the institution of an action”, “39. Case on

preservation application", "40. Case on the arbitration procedure", "41. Case on the special procedure of maritime action" and "42. Case on the application for recognition and enforcement of a court judgment or arbitral award".

三、修改第三级案由 113 个:

III. Amending 113 level-3 causes of action:

14、在第二级案由"二、婚姻家庭纠纷"项下变更"14、同居关系析产、子女抚养纠纷"为"17、同居关系纠纷"。

14. Changing "(14) dispute over property division or child-fostering under the cohabitation relationship" into "(17) dispute under the cohabitation relationship" under the level-2 cause of action "2. Dispute over marriage or family".

15、在第二级案由"六、所有权纠纷"项下增加"42、业主知情权纠纷"。

15. Adding "(42) dispute over the owner's right to know" under the level-2 cause of action "6. Ownership dispute".

16、在第二级案由"十、合同纠纷"项下增加"66、缔约过失责任纠纷"、"67、确认合同效力纠纷"、"77、 建设用地使用权合同纠纷"、"78、临时用地合同纠纷"、"79、探矿权转让合同纠纷"、" 80、采矿权转让合同纠纷"、"94、进出口押汇纠纷"、"96、银行卡纠纷"、"123、离退休人员返聘合同纠纷"、"124、广告合同纠纷"、"126、追偿权纠纷"、"141、知识产权质押合同纠纷"，变更"84、信用卡纠纷"为第三级案由"96、银行卡纠纷"项下的第四级案由"(2) 信用卡纠纷"，拆分"75、供用电、水、气、热力合同纠纷"为"84、供用电合同纠纷"、"85、供用水合同纠纷"、"86、供用气合同纠纷"、"87、供用热力合同纠纷"，删去"112、人民调解协议纠纷"，增加"127、请求确认人民调解协议效力"。

16. Adding "(66) dispute over the liability for contracting fault", "(67) dispute over the confirmation of the validity of a contract", "(77) dispute over a contract on construction land use right", "(78) dispute over a contract on land for temporary use", "(79) dispute over a contract on the transfer of the mineral prospecting right", "(80) dispute over a contract on the transfer of the mining right", "(94) dispute over import and export bill advance", "(96) dispute over a bank card", "(123) dispute over a contract on retiree reemployment", "(124) dispute over an advertisement contract", "(126) dispute over the right of recourse" and "(141) dispute over a contract on pledge of intellectual property right"; changing "(84) dispute over a credit card" into the level-4 cause of action "(b) dispute over a credit card" under the level-3 cause of action "(96) dispute over a bank card"; dividing "(75) dispute over a contract on supply and use of electricity, water, gas or heat" into "(84) dispute over a contract on supply and use of electricity", "(85) dispute over a contract on supply and use of water", "(86) dispute over a contract on supply and use of gas', "(87) dispute over a contract on supply and use of heat"; deleting "(112) dispute over a people's mediation agreement"; and adding "(127) request for confirming the validity of a people's mediation agreement" under the level-2 cause of action "10. Contract dispute".

17、在第二级案由"十四、知识产权合同纠纷"项下变更"140、计算机网络域名合

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同纠纷”为“140、网络域名合同纠纷”。

17. Changing “(140) dispute over a contract on the domain name of computer network” into “(140) dispute over a contract on the domain name of network” under the level-2 cause of action “14. Dispute over a contract on intellectual property right”.

18、在第二级案由“十五、知识产权权属、侵权纠纷”项下增加“153、确认不侵害知识产权纠纷”、“154、因申请知识产权临时措施损害责任纠纷”、“155、因恶意提起知识产权诉讼损害责任纠纷”、“156、专利权宣告无效后返还费用纠纷”。

18. Adding “(153) dispute over confirmation of non-infringement of intellectual property right”, “(154) dispute over the liability for harm caused by the application for an interim measure on intellectual property right”, “(155) dispute over the liability for harm caused by malicious institution of an intellectual property action” and “(156) dispute over return of expenses after declaring the patent right invalid” under the level-2 cause of action “15. Dispute over the attribution of or infringement upon intellectual property right”.

19、 在第二级案由“十六、不正当竞争、垄断纠纷”项下增加“158、商业贿赂不正当竞争纠纷”、“166、垄断协议纠纷”、“167、滥用市场支配地位纠纷”、“168、经营者集中纠纷”，变更“157、倾销纠纷”为“161、低价倾销不正当竞争纠纷”，变更“158、搭售、附加不合理条件销售纠纷”为“162、捆绑销售不正当竞争纠纷”，变更“161、串通投标纠纷”为“165、串通投标不正当竞争纠纷”。

19. Adding “(158) dispute over unfair competition of commercial bribery”, “(166) dispute over a monopoly agreement”, “(167) dispute over abuse of dominant market position” and “(168) dispute over concentration of business operators”; changing “(157) dispute over dumping” into “(161) dispute over unfair competition of dumping at a low price”; changing “(158) dispute over tie-in sales or sales with unreasonable conditions” into “(162) dispute over unfair competition of bundle sales”; and changing “(161) dispute over collusive bidding” into “(165) dispute over unfair competition of collusive bidding” under the level-2 cause of action “16. Dispute over unfair competition or monopoly”.

20、在第二级案由“十九、海事海商纠纷”项下增加“227、海事债权确权纠纷”，变更“172、养殖损害赔偿纠纷”为“178、海上、通海水域养殖损害责任纠纷”， 删去“177、多式联运合同纠纷（由海事法院受理的）”，变更“186、渔船承包合同纠纷”为“195、海上、通海水域运输船舶承包合同纠纷”，拆分“180、船舶买卖（建造、修理、改建和拆解）合同纠纷”为“186、船舶买卖合同纠纷”、“187、船舶建造合同纠纷”、“188、船舶修理合同纠纷”、“189、船舶改建合同纠纷”、“190、船舶拆解合同纠纷”，拆分“187、船舶属具和海运集装箱租赁、保管合同纠纷”为“197、船舶属具租赁合同纠纷”、“198、船舶属具保管合同纠纷”、“199、海运集装箱租赁合同纠纷”、“200、海运集装箱保管合同纠纷”，拆分“194、海难救助、海上打捞合同纠纷”为“207、海难救助合同纠纷”、“208、海上、通海水域打捞合同纠纷”，变更“198、与船舶营运有关的借款合同纠纷”为“213、船舶营运借款合同纠纷”。

20. Adding “(227) dispute over the confirmation of maritime claim”; changing “(172) dispute over the compensation for harm caused to breeding” into “(178) dispute over the liability for harm caused to breeding on the sea or on the sea-connected areas”; deleting “(177)

dispute over a multimodal transport contract (accepted by the maritime court)"; changing "(186) dispute over an undertaking contract of fishing vessels" into "(195) dispute over an undertaking contract of transporting vessels on the sea or on the sea-connected areas"; dividing "(180) dispute over a contract on vessel purchase (building, repairing, rebuilding or dismantling)" into "(186) dispute over a vessel purchase contract", "(187) dispute over a vessel building contract", "(188) dispute over a vessel repairing contract", "(189) dispute over a vessel rebuilding contract", and "(190) dispute over a vessel dismantling contract"; dividing "(187) dispute over a contract on lease or custody of utensils affixed to vessels or of shipping containers" into "(197) dispute over a contract on lease of utensils affixed to vessels", "(198) dispute over a contract on custody of utensils affixed to vessels", "(199) dispute over a contract on lease of shipping containers" and "(200) dispute over a contract on custody of shipping containers"; dividing "(194) dispute over a contract on salvage at sea or refloatation at sea" into "(207) dispute over a contract on salvage at sea" and "(208) dispute over a contract on refloatation on the sea or on the sea-connected areas; and changing "(198) dispute over a loan contract relating to the operation of vessels" into "(213) dispute over a loan contract on the operation of vessels" under the level-2 cause of action "19. Maritime dispute".

21、在第二级案由"二十一、与企业有关的纠纷"项下增加"239、企业承包经营合同纠纷"。

21. Adding "(239) dispute over an enterprise's contract operation agreement" under the level-2 cause of action "21. Dispute relating to an enterprise".

22、在第二级案由"二十二、与公司有关的纠纷"项下增加"243、股东名册记载纠纷"、"244、请求变更公司登记纠纷"、"246、新增资本认购纠纷"、"248、请求公司收购股份纠纷"、"250、公司决议纠纷"、"251、公司设立纠纷"、"252、公司证照返还纠纷"、"255、损害股东利益责任纠纷"、"256、损害公司利益责任纠纷"、"257、股东损害公司债权人利益责任纠纷"、"258、公司关联交易损害责任纠纷"、"264、申请公司清算"、"265、清算责任纠纷"，变更"241、股权确认纠纷"为"242、股东资格确认纠纷"，删去"244、公司章程或章程条款撤销纠纷"。

22. Adding "(243) dispute over records in stock transfer books", "(244) dispute over a request for changing company registration", "(246) dispute over subscription of newly-increased capital", "(248) dispute over a request for a company's purchase of shares", "(250) dispute over a company's resolution", "(251) dispute over the establishment of a company", "(252) dispute over the returning of a company's certificates or licenses", "(255) dispute over the liability for impairing the interests of shareholders", "(256) dispute over the liability for impairing a company's interests", "(257) dispute over the liability of a shareholder for impairing the interests of the company's creditors", "(258) dispute over the liability for impairing a company's related transactions", "(264) application for a company's liquidation" and "(265) dispute over the liability for liquidation"; and changing "(241) dispute over the confirmation of equities" into "(242) dispute over the confirmation of a shareholder's qualification"; and deleting "(244) dispute over the revocation of articles of association or the contents thereof" under the level-2 cause of action "22. Dispute relating to a company".

23、在第二级案由“二十三、与合伙企业有关的纠纷”项下增加“267、入伙纠纷”、“268、退伙纠纷”、“269、合伙企业财产份额转让纠纷”，删去“263、普通合伙纠纷”、“264、特殊的普通合伙纠纷”、“265、有限合伙纠纷”。

23. Adding “(267) dispute over entering into partnership”, “(268) dispute over withdrawal from partnership”, and “(269) dispute over the transfer of property shares of a partnership enterprise”; and deleting “(263) dispute over general partnership”, “(264) dispute over special general partnership” and “(265) dispute over limited partnership” under the level-2 cause of action “23. Dispute relating to a partnership enterprise”.

24、在第二级案由“二十四、与破产有关的纠纷”项下增加“273、请求撤销个别清偿行为纠纷”、“274、请求确认债务人行为无效纠纷”、“275、对外追收债权纠纷”、“276、追收未缴出资纠纷”、“277、追收抽逃出资纠纷”、“278、追收非正常收入纠纷”、“284、损害债务人利益赔偿纠纷”、“285、管理人责任纠纷”，删去“269、职工权益清单更正纠纷”，变更“272、抵销权纠纷”为“281、破产抵销权纠纷”。

24. Adding “(273) dispute over a request for revoking individual repayment”, “(274) dispute over a request for confirming the debtor’s acts as invalid”, “(275) dispute over external claim recovery”, “(276) dispute over the recovery of unpaid capital”, “(277) dispute over the recovery of illegally withdrawn capital which has been contributed”, “(278) dispute over the recovery of abnormal income”, “(284) dispute over the compensation for impairing the debtor’s interests” and “(285) dispute over the manager’s liability”; deleting “(269) dispute over the correction of the list of employees’ rights and interests”; and changing “(272) dispute over the right of set off” into “(281) dispute over the setoff right in bankruptcy law” under the level-2 cause of action “24. Dispute relating to bankruptcy”.

25、在第二级案由“二十五、证券纠纷”项下增加“286、证券权利确认纠纷”、“288、金融衍生品种交易纠纷”。

25. Adding “(286) dispute over the confirmation of securities rights” and “(288) dispute over the trading of financial derivatives” under the level-2 cause of action “25. Securities dispute”.

26、在第二级案由“二十七、保险纠纷”项下增加“317、保险代理合同纠纷”、“322、进出口信用保险合同纠纷”、“323、保险费纠纷”。

26. Adding “(317) dispute over an insurance agency contract”, “(322) dispute over an import and export credit insurance contract” and “(323) dispute over insurance premiums” under the level-2 cause of action “27. Insurance dispute”.

27、在第二级案由“三十、侵权责任纠纷”项下增加“341、监护人责任纠纷”、“342、用人单位责任纠纷”、“343、劳务派遣工作人员侵权责任纠纷”、“344、提供劳务者致害责任纠纷”、“345、提供劳务者受害责任纠纷”、“346、网络侵权责任纠纷”、“347、违反安全保障义务责任纠纷”、“348、教育机构责任纠纷”、“349、产品责任纠纷”、“350、机动车交通事故责任纠纷”、“351、医疗损害责任纠纷”、“352、环境污染责任纠纷”、“353、高度危险责任纠纷”、“354、饲养动物损害责任纠纷”、“355、物件损害责任纠纷”、“363、铁路运输损害责任纠纷”、“366、因申请诉前财产保全损害责任纠纷”、“367、因申请诉

前证据保全损害责任纠纷”、“368、因申请诉中财产保全损害责任纠纷”、“369、因申请诉中证据保全损害责任纠纷”、“370、因申请先予执行损害责任纠纷”。

27. Adding “(341) dispute over the guardian’s liability”, “(342) dispute over the employer’s liability”, “(343) dispute over the liability for the infringement caused by a person dispatched for labor”, “(344) dispute over the liability for damage caused by a labor provider”, “(345) dispute over the liability for damage caused to a labor provider”, “346. dispute over the liability for network infringement”, “(347) dispute over the liability for failure to fulfill the duty of safety protection”, “(348) dispute over the liability of an educational institution”, “(349) dispute over product liability”, “(350) dispute over the liability for a motor vehicle traffic accident”, “(351) dispute over the liability for medical malpractice”, “(352) dispute over the liability for environmental pollution”, “(353) dispute over the liability for an ultrahazardous activity”, “(354) dispute over the liability for harm caused by a domestic animal”, “(355) dispute over the liability for harm caused by an object”, “(363) dispute over the liability for harm caused by railway transport”, “(366) dispute over the liability for harm caused by the application for property preservation before the institution of an action”, “(367) dispute over the liability for harm caused by the application for evidence preservation before the institution of an action”, “(368) dispute over the liability for harm caused by the application for property preservation during an action”, “(369) dispute over the liability for harm caused by the application for evidence preservation during an action” and “(370) dispute over the liability for harm caused by the application for prior enforcement” under the level-2 cause of action “30. Dispute over the liability for tort”.

28、在第二级案由“四十二、申请承认与执行法院判决、仲裁裁决案件”项下增加“411、申请执行海事仲裁裁决”、“ 412、申请执行知识产权仲裁裁决”、“413、申请执行涉外仲裁裁决”。

28. Adding “(411) application for the enforcement of a maritime arbitral award”, “(412) application for the enforcement of an intellectual property arbitral award” and “(413) application for the enforcement of a foreign arbitral award” under the level-2 cause of action “42. Case on the application for recognition and enforcement of a court judgment or arbitral award”.

29、在第二级案由“四十三、执行异议之诉”项下增加“422、案外人执行异议之诉”、“423、申请执行人执行异议之诉”、“424、执行分配方案异议之诉”。

29. Adding “(422) lawsuit on the outsider’s objection to enforcement”, “(423) lawsuit on the enforcement applicant’s objection to enforcement”, “(424) lawsuit on the objection to the enforcement of the distribution plan” under the level-2 cause of action “43. Lawsuit on objection to enforcement”.

四、修改第四级案由 154 个:

IV. Amending 154 level-4 causes of action:

30、在第三级案由“17、同居关系纠纷”项下增加“(1) 同居关系析产纠纷”、“(2) 同居关系子女抚养纠纷”。

30. Adding “(a) dispute over property division under the cohabitation relationship” and “(b) dispute over child-fostering under the cohabitation relationship” under the level-3 cause of action “(17) dispute under the cohabitation relationship”.

31、在第三级案由“47、共有纠纷”项下增加“（1）共有权确认纠纷”、“（2）共有物分割纠纷”、“（3）共有人优先购买权纠纷”。

31. Adding “(a) dispute over co-ownership confirmation”, “(b) dispute over the division of co-owned articles” and “(c) dispute over the preemptive purchase right of co-owners” under the level-3 cause of action “(47) dispute over co-ownership”.

32、在第三级案由“54、土地承包经营权纠纷”项下增加“（3）土地承包经营权继承纠纷”。

32. Adding “(c) dispute over the inheritance of the right to contracted management of land” under the level-3 cause of action “(54) dispute over the right to contracted management of land”.

33、在第三级案由“67、确认合同效力纠纷”项下增加“（1）确认合同有效纠纷”、“（2）确认合同无效纠纷”。

33. Adding “(a) dispute over the confirmation of a contract as valid” and “(b) dispute over the confirmation of a contract as invalid” under the level-3 cause of action “(67) dispute over the confirmation of validity of a contract”.

34、在第三级案由“71、买卖合同纠纷”项下增加“（6）网络购物合同纠纷”、“（7）电视购物合同纠纷”。

34. Adding “(f) dispute over a network shopping contract” and “(g) dispute over a TV shopping contract” under the level-3 cause of action “(71) dispute over a purchase contract”.

35、变更第三级案由“71、买卖合同纠纷”项下的第四级案由“（6）房屋买卖合同纠纷”为第三级案由“82、房屋买卖合同纠纷”，并在其项下增加“（1）商品房预约合同纠纷”、“（5）经济适用房转让合同纠纷”、“（6）农村房屋买卖合同纠纷”。

35. changing the level-4 cause of action “(f) dispute over a house purchase contract” under the level-3 cause of action “(71) dispute over a purchase contract” into the level-3 cause of action “(82) dispute over a house purchase contract”, and adding “(a) dispute over a commodity house precontract”, “(e) dispute over a contract on the transfer of an economically affordable house” and “(f) dispute over a rural house purchase contract” thereunder.

36、变更第三级案由“74、房地产开发经营合同纠纷”项下的第四级案由“（10）房屋拆迁安置补偿合同纠纷”为第三级案由“83、房屋拆迁安置补偿合同纠纷”。

36. changing the level-4 cause of action “(j) dispute over a contract on compensation for house demolition and relocation” under the level-3 cause of action “(74) dispute over a contract on real estate development and operation” into the level-3 cause of action “(83) dispute over a contract on compensation for house demolition and relocation”.

37、在新增加的第三级案由“77、建设用地使用权合同纠纷”项下增加“（2）建设用地使用权转让合同纠纷”。

37. Adding “(b) dispute over a contract on the transfer of construction land use right” under the newly added level-3 cause of action “(77) dispute over a contract on the construction land use right”.

38、在第三级案由“77、借款合同纠纷”项下增加“（5）小额借款合同纠纷”、“（6）金融不良债权转让合同纠纷”、“（7）金融不良债权追偿纠纷”。

38. Adding “(e) dispute over a small-sum loan contract”, “(f) dispute over a contract on the transfer of financial distressed debt” and “(g) dispute over the recovery of financial distressed debt” under the level-3 cause of action “(77) dispute over a loan contract”.

39、在第三级案由“86、租赁合同纠纷”项下增加“（1）土地租赁合同纠纷”、“（2）房屋租赁合同纠纷”、“（3）车辆租赁合同纠纷”、“（4）建筑设备租赁合同纠纷”。

39. Adding “(a) dispute over a land lease contract”, “(b) dispute over a house lease contract”, “(c) dispute over a vehicle lease contract” and “(d) dispute over a contract on the lease of construction equipment” under the level-3 cause of action “(86) dispute over a lease contract”.

40、在第三级案由“88、承揽合同纠纷”项下增加“（1）加工合同纠纷”、“（2）定作合同纠纷”、“（3）修理合同纠纷”、“（4）复制合同纠纷”、“（5）测试合同纠纷”、“（6）检验合同纠纷”、“（7）铁路机车、车辆建造合同纠纷”。

40. Adding “(a) dispute over a processing contract”, “(b) dispute over a contract on custom-made work”, “(c) dispute over a repairing contract”, “(d) dispute over a duplication contract”, “(e) dispute over a testing contract, “(f) dispute over an inspection contract” and “(g) dispute over a contract on the construction of railway locomotives or vehicles” under the level-3 cause of action “(88) dispute over a work contract”.

41、在第三级案由“89、建设工程合同纠纷”项下增加“（4）建设工程价款优先受偿权纠纷”、“（8）铁路修建合同纠纷”、“（9）农村建房施工合同纠纷”。

41. Adding “(d) dispute over the repayment priority of price for a construction project”, “(h) dispute over a railway construction contract” and “(i) dispute over a rural house construction contract” under the level-3 cause of action “(89) dispute over a contract on a construction project”.

42、在第三级案由“90、运输合同纠纷”项下增加“（12）铁路货物运输合同纠纷”、“（13）铁路旅客运输合同纠纷”、“（14）铁路行李运输合同纠纷”、“（15）铁路包裹运输合同纠纷”、“（16）国际铁路联运合同纠纷”。

42. Adding “(l) dispute over a railway freight transport contract”, “(m) dispute over a railway passenger transport contract”, “(n) dispute over a railway luggage transport contract”, “(o) dispute over a railway parcel transport contract” and “(p) dispute over a contract on international through railway transport” under the level-3 cause of action “(90) dispute over a

transport contract".

43、变更第三级案由“93、委托合同纠纷”项下的第四级案由“(5) 委托理财合同纠纷”为第三级案由“105、委托理财合同纠纷”，并在其项下增加“(1) 金融委托理财合同纠纷”、“(2) 民间委托理财合同纠纷”。

43. changing the level-4 cause of action "(e) dispute over a contract on commissioned wealth management" under the level-3 cause of action "(93) dispute over a commission contract" into the level-3 cause of action "(105) dispute over a contract on commissioned wealth management", and adding "(a) dispute over a contract on financial commissioned wealth management" and "(b) dispute over a contract on private commissioned wealth management" thereunder.

44、在第三级案由“96、银行卡纠纷”项下增加“(2) 借记卡纠纷”。

44. Adding "(b) dispute over a debit card" under the level-3 cause of action "(96) dispute over a bank card".

45、变更第三级案由“98、保险合同纠纷”项下的第四级案由“(1) 财产保险合同纠纷”为第三级案由“317、财产保险合同纠纷”，并在其项下增加“(1) 财产损失保险合同纠纷”、“(2) 责任保险合同纠纷”、“(3) 信用保险合同纠纷”、“(4) 保证保险合同纠纷”、“(5) 保险人代位求偿权纠纷”。

45. Changing the level-4 cause of action "(a) dispute over a property insurance contract" under the level-3 cause of action "(98) dispute over an insurance contract" into the level-3 cause of action "(317) dispute over a property insurance contract" and adding "(a) dispute over a property loss insurance contract", "(b) dispute over a liability insurance contract", "(c) dispute over a credit insurance contract", "(d) dispute over a guarantee insurance contract" and "(e) dispute over the insurer's subrogation right" thereunder.

46、变更第三级案由“98、保险合同纠纷”项下的第四级案由“(2) 人身保险合同纠纷”为第三级案由“318、人身保险合同纠纷”，并在其项下增加“(1) 人寿保险合同纠纷”、“(2) 意外伤害保险合同纠纷”、“(3) 健康保险合同纠纷”。

46. Changing the level-4 cause of action "(b) dispute over a personal insurance contract" under the level-3 cause of action "(98) dispute over an insurance contract" into the level-3 cause of action "(318) dispute over a personal insurance contract", and adding "(a) dispute over a life insurance contract", "(b) dispute over an accident insurance contract" and "(c) dispute over a health insurance contract" thereunder.

47、变更第三级案由“98、保险合同纠纷”项下的第四级案由“(5) 再保险合同纠纷”为第三级案由“319、再保险合同纠纷”，变更其项下的第四级案由“98 (7) 保险经纪合同纠纷”为第三级案由“320、保险经纪合同纠纷”。

47. Changing the level-4 cause of action "(e) dispute over a reinsurance contract" under the level-3 cause of action "(98) dispute over an insurance contract" into the level-3 cause of action "(319) dispute over a reinsurance contract", and changing the level-4 cause of action "(98) (g)

dispute over an insurance brokerage contract" thereunder into the level-3 cause of action "(320) dispute over an insurance brokerage contract".

48、在第三级案由"107、农村土地承包合同纠纷"项下增加"(6) 土地承包经营权出租合同纠纷"。

48. Adding "(f) dispute over a contract on the lease of the right to contracted management of land" under the level-3 cause of action "(107) dispute over a rural land contract".

49、在第三级案由"108、服务合同纠纷"项下增加"(16) 家政服务合同纠纷"、"(17) 庆典服务合同纠纷"、"(18) 殡葬服务合同纠纷"、"(19) 农业技术服务合同纠纷"、"(20) 农机作业服务合同纠纷"、"(21) 保安服务合同纠纷"、"(22) 银行结算合同纠纷"。

49. Adding "(p) dispute over a household service contract", "(q) dispute over a celebration service contract", "(r) dispute over a funeral service contract", "(s) dispute over an agricultural technical service contract", "(t) dispute over a rural machinery service contract", "(u) dispute over a security service contract" and "(v) dispute over a bank settlement contract" under the level-3 cause of action "(108) dispute over a service contract".

50、在第三级案由"112、人民调解协议纠纷"项下删去"(1) 请求履行人民调解协议纠纷"、"(2) 请求变更人民调解协议纠纷"、"(3) 请求撤销人民调解协议纠纷"、"(4) 请求确认人民调解协议无效纠纷"。

50. Deleting "(a) dispute over a request for the performance of a people's mediation agreement", "(b) dispute over a request for the modification of a people's mediation agreement", "(c) dispute over a request for the rescission of a people's mediation agreement" and "(d) dispute over a request for confirming a people's mediation agreement as invalid" under the level-3 cause of action "(112) dispute over a people's mediation agreement".

51、在第三级案由"130、著作权合同纠纷"项下增加"(5) 出版合同纠纷"、"(6) 表演合同纠纷"、"(7) 音像制品制作合同纠纷"、"(8) 广播电视播放合同纠纷"。

51. Adding "(e) dispute over a publishing contract", "(f) dispute over a performance contract", "(g) dispute over a contract on the production of audiovisual products" and "(h) dispute over a contract on radio or TV broadcasting" under the level-3 cause of action "(130) dispute over a copyright contract".

52、在第三级案由"140、网络域名合同纠纷"项下增加"(1) 网络域名注册合同纠纷"、"(2) 网络域名转让合同纠纷"、"(3) 网络域名许可使用合同纠纷"。

52. Adding "(a) dispute over a contract on the registration of network domain name", "(b) dispute over a contract on the transfer of network domain name" and "(c) dispute over a contract on the licensed use of network domain name" under the level-3 cause of action "(140) dispute over a contract on network domain name".

53、在第三级案由"141、著作权权属、侵权纠纷"项下增加"(3) 侵害作品署名权纠纷"、"(4) 侵害作品修改权纠纷"、"(5) 侵害保护作品完整权纠纷"、"(6) 侵害作品复

制权纠纷”、“（7）侵害作品发行权纠纷”、“（8）侵害作品出租权纠纷”、“（9）侵害作品展览权纠纷”、“（10）侵害作品表演权纠纷”、“（11）侵害作品放映权纠纷”、“（12）侵害作品广播权纠纷”、“（13）侵害作品信息网络传播权纠纷”、“（14）侵害作品摄制权纠纷”、“（15）侵害作品改编权纠纷”、“（16）侵害作品翻译权纠纷”、“（17）侵害作品汇编权纠纷”、“（18）侵害其他著作财产权纠纷”、“（19）出版者权权属纠纷”、“（20）表演者权权属纠纷”、“（21）录音录像制作者权权属纠纷”、“（22）广播组织权权属纠纷”。

53. Adding “(c) dispute over the infringement upon the work authorship right”, “(d) dispute over the infringement upon the work alteration right”, “(e) dispute over the infringement upon the right of keeping work integrity”, “(f) dispute over the infringement upon the work reproduction right”, “(g) dispute over the infringement upon the work distribution right”, “(h) dispute over the infringement upon the work lease right”, “(i) dispute over the infringement upon the work exhibition right”, “(j) dispute over the infringement upon the work performance right”, “(k) dispute over the infringement upon the work projection right”, “(l) dispute over the infringement upon the work broadcasting right”, “(m) dispute over the infringement upon the right of work dissemination through information network”, “(n) dispute over the infringement upon the work production right”, “(o) dispute over the infringement upon the work adaptation right”, “(p) dispute over the infringement upon the work translation right”, “(q) dispute over the infringement upon the work compilation right”, “(r) dispute over the infringement upon the property right of any other work”, “(s) dispute over the attribution of the publisher’s right”, “(t) dispute over the attribution of the performer’s right”, “(u) dispute over the attribution of the right of producer of sound or video recordings” and “(v) dispute over the attribution of the right of broadcasting organization” under the level-3 cause of action “(141) dispute over the copyright attribution or infringement”.

54、在第三级案由“142、商标权权属、侵权纠纷”项下增加“（1）商标权权属纠纷”、“（2）侵害商标权纠纷”。

54. Adding “(a) dispute over the attribution of trademark right” and “(b) dispute over the infringement upon trademark right” under the level-3 cause of action “(142) dispute over the attribution of or infringement upon the trademark right”.

55、在第三级案由“154、因申请知识产权临时措施损害责任纠纷”项下增加“（1）因申请诉前停止侵害专利权损害责任纠纷”、“（2）因申请诉前停止侵害注册商标专用权损害责任纠纷”、“（3）因申请诉前停止侵害著作权损害责任纠纷”、“（4）因申请诉前停止侵害植物新品种权损害责任纠纷”、“（5）因申请海关知识产权保护措施损害责任纠纷”。

55. Adding “(a) dispute over the liability for harm caused by the application for ceasing the infringement upon patent right before the institution of an action”, “(b) dispute over the liability for harm caused by the application for ceasing the infringement upon the right to the exclusive use of registered trademark before the institution of an action”, “(c) dispute over the liability for harm caused by the application for ceasing the infringement upon copyright before the institution of an action”, “(d) dispute over the liability for harm caused by the application for ceasing the infringement upon the right to new varieties of plants” and “(e) dispute over the liability for harm caused by the application for protecting intellectual property rights of customs” under the level-3 cause of action “(154) dispute over the liability for harm caused by

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the application for an interim measure on intellectual property right".

56、在第三级案由“166、垄断协议纠纷”项下增加“(1) 横向垄断协议纠纷”、“(2) 纵向垄断协议纠纷”。

56. Adding "(a) dispute over a horizontal monopoly agreement" and "(b) dispute over a vertical monopoly agreement" under the level-3 cause of action "(166) dispute over a monopoly agreement".

57、在第三级案由“167、滥用市场支配地位纠纷”项下增加“(1) 垄断定价纠纷”、“(2) 掠夺定价纠纷”、“(3) 拒绝交易纠纷”、“(4) 限定交易纠纷”、“(5) 捆绑交易纠纷”、“(6) 差别待遇纠纷”。

57. Adding "(a) dispute over monopoly pricing", "(b) dispute over predatory pricing", "(c) dispute over refusal to deal", "(d) dispute over transaction limitation", "(e) dispute over bundle trading" and "(f) dispute over differential treatment" under the level-3 cause of action "(167) dispute over abuse of dominant market position".

58、在第三级案由“163、劳动合同纠纷”项下增加“(7) 竞业限制纠纷”。

58. Adding "(g) non-competition dispute" under the level-3 cause of action "(163) dispute over a labor contract".

59、在第三级案由“166、人事争议”项下增加“(3) 聘用合同争议”。

59. Adding "(c) dispute over an employment contract" under the level-3 cause of action "(166) personnel dispute".

60、在第三级案由“239、企业承包经营合同纠纷”项下增加“(1) 中外合资经营企业承包经营合同纠纷”、“(2) 中外合作经营企业承包经营合同纠纷”、“(3) 外商独资企业承包经营合同纠纷”、“(4) 乡镇企业承包经营合同纠纷”。

60. Adding "(a) dispute over a contract operation agreement of a Sino-foreign equity joint venture", "(b) dispute over a contract operation agreement of a Sino-foreign contractual joint enterprise", "(c) dispute over a contract operation agreement of a foreign-funded enterprise" and "(d) dispute over a contract operation agreement of a township enterprise" under the level-3 cause of action "(239) dispute over an enterprise's contract operation agreement".

61、在第三级案由“250、公司决议纠纷”项下增加“公司决议效力确认纠纷”、“公司决议撤销纠纷”。

61. Adding "dispute over the confirmation of the validity of a company's resolution" and "dispute over the rescission of a company's resolution" under the level-3 cause of action "(250) dispute over a company's resolution".

62、在第三级案由“270、破产债权确认纠纷”项下增加“(1) 职工破产债权确认纠纷”、“(2) 普通破产债权确认纠纷”。

62. Adding "(a) dispute over the confirmation of employees' claim in bankruptcy", and "(b)

dispute over the confirmation of general claim in bankruptcy" under the level-3 cause of action "(270) dispute over the confirmation of claim in bankruptcy".

63、在第三级案由"271、取回权纠纷"项下增加"(1) 一般取回权纠纷"、"(2) 出卖人取回权纠纷"。

63. Adding "(a) dispute over the general recall right" and "(b) dispute over the seller's recall right" under the level-3 cause of action "(271) dispute over the recall right".

64、在第三级案由"279、证券回购合同纠纷"项下增加"(1) 股票回购合同纠纷"、"(2) 国债回购合同纠纷"、"(3) 公司债券回购合同纠纷"、"(4) 证券投资基金回购合同纠纷"、"(5) 质押式证券回购纠纷"。

64. Adding "(a) dispute over a stock repurchase contract", "(b) dispute over a national debt repurchase contract", "(c) dispute over a corporate bond repurchase contract", "(d) dispute over a securities investment fund repurchase contract" and "(e) dispute over a pledge securities repurchase contract" under the level-3 cause of action "(279) dispute over a securities repurchase contract".

65、在第三级案由"286、证券权利确认纠纷"项下增加"(1) 股票权利确认纠纷"、"(2) 公司债券权利确认纠纷"、"(3) 国债权利确认纠纷"、"(4) 证券投资基金权利确认纠纷"。

65. Adding "(a) dispute over the confirmation of stock rights", "(b) dispute over the confirmation of the right of corporate bonds", "(c) dispute over the confirmation of the right of national debts" and "(d) dispute over the confirmation of the right of securities investment funds" under the level-3 cause of action "(286) dispute over the confirmation of securities right".

66、在第三级案由"347、违反安全保障义务责任纠纷"项下增加"(1) 公共场所管理人责任纠纷"、"(2) 群众性活动组织者责任纠纷"。

66. Adding "(a) dispute over the liability of the manager of a public place" and "(b) dispute over the liability of the organizer of a mass activity" under the level-3 cause of action "(347) dispute over the liability for failure to fulfill the duty of safety protection".

67、在第三级案由"349、产品责任纠纷"项下增加"(1) 产品生产者责任纠纷"、"(2) 产品销售者责任纠纷"、"(3) 产品运输者责任纠纷"、"(4) 产品仓储者责任纠纷"。

67. Adding "(a) dispute over the liability of the product manufacturer", "(b) dispute over the liability of the product seller", "(c) dispute over the liability of the product transporter" and "(d) dispute over the liability of product storekeeper" under the level-3 cause of action "(349) dispute over product liability".

68、在第三级案由"351、医疗损害责任纠纷"项下增加"(1) 侵害患者知情同意权责任纠纷"、"(2) 医疗产品责任纠纷"。

68. Adding "(a) dispute over the liability for infringing the patient's right of informed

consent" and "(b) dispute over the medical product liability" under the level-3 cause of action "(351) dispute over the liability for medical malpractice".

69、在第三级案由“352、环境污染责任纠纷”项下增加“（5）土壤污染责任纠纷”、“（6）电子废物污染责任纠纷”、“（7）固体废物污染责任纠纷”。

69. Adding "(e) dispute over the liability for soil pollution", "(f) dispute over the liability for pollution by electronic waste" and "(g) dispute over the liability for pollution by solid waste" under the level-3 cause of action "(352) dispute over the liability for environmental pollution".

70、在第三级案由“353、高度危险责任纠纷”项下增加“（1）民用核设施损害责任纠纷”、“（2）民用航空器损害责任纠纷”、“（3）占有、使用高度危险物损害责任纠纷”、“（4）高度危险活动损害责任纠纷”、“（5）遗失、抛弃高度危险物损害责任纠纷”、“（6）非法占有高度危险物损害责任纠纷”。

70. Adding "(a) dispute over the liability for harm caused by a civilian nuclear facility", "(b) dispute over the liability for harm caused by a civil aircraft", "(c) dispute over the liability for harm caused by the possession or use of ultrahazardous materials", "(d) dispute over the liability for harm caused by an ultrahazardous activity", "(e) dispute over the liability for harm caused by the loss or abandonment of ultrahazardous materials" and "(f) dispute over the liability for harm caused by the illegal possession of ultrahazardous materials" under the level-3 cause of action "(353) dispute over the liability for an ultrahazardous activity".

71、在第三级案由“355、物件损害责任纠纷”项下增加“（1）物件脱落、坠落损害责任纠纷”、“（2）建筑物、构筑物倒塌损害责任纠纷”、“（3）不明抛掷物、坠落物损害责任纠纷”、“（4）堆放物倒塌致害责任纠纷”、“（5）公共道路妨碍通行损害责任纠纷”、“（6）林木折断损害责任纠纷”、“（7）地面施工、地下设施损害责任纠纷”。

71. Adding "(a) dispute over the liability for harm caused by an object falling off or falling down", "(b) dispute over the liability for harm caused by the collapse of a building or structure", "(c) dispute over the liability for harm caused by an unidentified throwing object or falling object", "(d) dispute over the liability for harm caused by the collapse of a pile of objects", "(e) dispute over the liability for harm caused by passage obstruction on a public road", "(f) dispute over the liability for harm caused by a broken tree" and "(g) dispute over the liability for harm caused by ground construction or underground facilities" under the level-3 cause of action "(355) dispute over the liability for harm caused by an object".

72、在第三级案由“363、铁路运输损害责任纠纷”项下增加“（1）铁路运输人身损害责任纠纷”。

72. Adding "(a) dispute over the liability for personal injury caused by railway transport" under the level-3 cause of action "(363) dispute over the liability for harm caused by railway transport".

本决定自 2011 年 4 月 1 日起施行。

This Decision shall come into force on April 1, 2011.

《民事案件案由规定》根据本决定作修改并对条文顺序作调整后，重新公布。

The Provisions on the Cause of Action of Civil Cases shall be promulgated again after they are amended and adjusted according to this Decision and the sequence of articles thereof has been adjusted accordingly.

全国人大常委会关于修改《中华人民共和国道路交通安全法》的决定(2011)

Decision of the Standing Committee of the National People's Congress on Amending the Law of the People's Republic of China on Road Traffic Safety(2011)

生效日期：2011 年 05 月 01 日

Effective Date: 01-05-2011

第十一届全国人民代表大会常务委员会第二十次会议决定对《中华人民共和国道路交通安全法》作如下修改：

It is decided at the 20th Session of the Standing Committee of the 11th National People's Congress to amend the Law of the People's Republic of China on Road Traffic Safety as follows:

一、将第九十一条修改为："饮酒后驾驶机动车的，处暂扣六个月机动车驾驶证，并处一千元以上二千元以下罚款。因饮酒后驾驶机动车被处罚，再次饮酒后驾驶机动车的，处十日以下拘留，并处一千元以上二千元以下罚款，吊销机动车驾驶证。

I. Article 91 shall be amended as: "Whoever drives a motor vehicle after drinking alcohol shall be temporarily withheld of his motor vehicle driving license for six months and be concurrently imposed on a fine of not less than 1,000 yuan but not more than 2,000 yuan. Whoever drives a motor vehicle after drinking alcohol again after being punished for such act shall be detained for not more than ten days, be concurrently imposed on a fine of not less than 1,000 yuan but not more than 2,000 yuan, and be revoked of his motor vehicle driving license.

"醉酒驾驶机动车的，由公安机关交通管理部门约束至酒醒，吊销机动车驾驶证，依法追究刑事责任；五年内不得重新取得机动车驾驶证。

"Whoever drives a motor vehicle when he is drunk shall be restricted by the traffic administrative department of the public security organ until he becomes sober, be revoked his motor vehicle driving license, and be subject to criminal liability according to law; and he shall not re-apply for a motor vehicle driving license within five years.

"饮酒后驾驶营运机动车的，处十五日拘留，并处五千元罚款，吊销机动车驾驶证，五年内不得重新取得机动车驾驶证。

"Whoever drives an operating motor vehicle after drinking alcohol shall be detained for 15 days, be concurrently imposed on a fine of 5,000 yuan, and be revoked of his motor vehicle driver license, and he shall not re-apply for a motor vehicle driving license within five years.

“醉酒驾驶营运机动车的，由公安机关交通管理部门约束至酒醒，吊销机动车驾驶证，依法追究刑事责任；十年内不得重新取得机动车驾驶证，重新取得机动车驾驶证后，不得驾驶营运机动车。

“Whoever drives an operating motor vehicle when he is drunk shall be restricted by the traffic administrative department of the public security organ until he becomes sober, be revoked of his motor vehicle driving license, and be subject to criminal liability according to law; and he shall not re-apply for a motor vehicle driving license within ten years, and shall be prohibited from driving an operating motor vehicle after obtaining the motor vehicle driving license again.

“饮酒后或者醉酒驾驶机动车发生重大交通事故，构成犯罪的，依法追究刑事责任，并由公安机关交通管理部门吊销机动车驾驶证，终生不得重新取得机动车驾驶证。”

“Whoever causes a serious traffic accident by driving a motor vehicle after drinking alcohol or when he is drunk, which constitutes a crime, shall be subject to criminal liability according to law, and be revoked of his motor vehicle driving license by the traffic administrative department of the public security organ, and he shall not re-apply for a motor vehicle driving license for life.”

二、将第九十六条第一款修改为：“伪造、变造或者使用伪造、变造的机动车登记证书、号牌、行驶证、驾驶证的，由公安机关交通管理部门予以收缴，扣留该机动车，处十五日以下拘留，并处二千元以上五千元以下罚款；构成犯罪的，依法追究刑事责任。

II. Paragraph 1 of Article 96 shall be amended as: “Where anyone forges, alters or uses forged or altered motor vehicle registration certificate, plate, vehicle license or driving license, it shall be confiscated and the motor vehicle shall be detained by the traffic administrative department of the public security organ, and he shall be detained for not more than 15 days and be imposed on a fine of not less than 2,000 yuan but not more than 5,000 yuan; and if any crime is constituted, he shall be subject to criminal liability according to law.

“伪造、变造或者使用伪造、变造的检验合格标志、保险标志的，由公安机关交通管理部门予以收缴，扣留该机动车，处十日以下拘留，并处一千元以上三千元以下罚款；构成犯罪的，依法追究刑事责任。

“Where anyone forges, alters or uses forged or altered conformity inspection mark or insurance sign, it shall be confiscated and the motor vehicle shall be detained by the traffic administrative department of the public security organ, and he shall be detained for not more than 10 days and be imposed on a fine of not less than 1,000 yuan but not more than 3,000 yuan; and if any crime is constituted, he shall be subject to criminal liability according to law.

“使用其他车辆的机动车登记证书、号牌、行驶证、检验合格标志、保险标志的，由公安机关交通管理部门予以收缴，扣留该机动车，处二千元以上五千元以下罚款。”

“Where anyone uses the motor vehicle registration certificate, plate, vehicle license, conformity inspection mark or insurance sign of any other vehicle, it shall be confiscated and the motor vehicle shall be detained by the traffic administrative department of the public security organ, and he shall be imposed on a fine of not less than 2,000 yuan but not more than

5,000 yuan.”

原第九十六条第二款作为第四款。

The former paragraph 2 of Article 96 shall be changed into paragraph 4.

三、本决定自 2011 年 5 月 1 日起施行。

III. This Decision shall come into force on May 1, 2011.

《中华人民共和国道路交通安全法》根据本决定作相应的修改，重新公布。

The Law of the People’s Republic of China on Road Traffic Safety shall be amended according to this Decision and be issued again.

Please consider the environment before printing this paper

大成律师事务所成立于 1992 年，是亚洲最大的综合性律师事务所之一。大成总部设在北京，拥有中国最大的全球化法律服务网络，在上海、武汉、成都、济南、重庆、天津、哈尔滨、郑州、银川、西宁、厦门、杭州、海口、深圳、南通、广州、长春、西安、沈阳、呼和浩特、南京、常州、无锡、青岛、兰州、福州、南宁、太原、大连、长沙、吉林、舟山、香港、台北、莫斯科、新加坡、巴黎、首尔、华盛顿、东京、纽约、旧金山、多伦多、墨西哥、圣保罗、利马、伦敦、布鲁塞尔、柏林、阿姆斯特丹、马德里、斯德哥尔摩、迪拜、开罗、开普敦、阿布贾、特拉维夫、悉尼等城市设有分支机构或联盟机构。

Founded in 1992, Dacheng Law Offices is one of the largest law firms of full services in Asia. Headquartered in Beijing, Dacheng has the largest global legal services network of any law firm in China, with branch offices or alliance partners in Shanghai Wuhan Chengdu Jinan Chongqing Tianjin Ha'erbin Zhengzhou Yinchuan Xining Xiamen Hangzhou Haikou Shenzhen Nantong Guangzhou Changchun Xi'an Shenyang Hohhot Nanjing Changzhou Wuxi Qingdao Lanzhou Fuzhou Nanning Taiyuan Dalian Changsha Jilin Zhoushan Hong Kong Taipei Moscow Singapore Paris Seoul London Washington Tokyo New York San Francisco Toronto Mexico St. Paul Lima London Brussels Berlin Amsterdam Madrid Stockholm Dubai Cairo Cape Town Abuja Tel Aviv Sydney.

争议解决与强制执行是大成的传统优势业务，大成曾获得《亚洲法律事务》(ALB)2009 年度"纠纷解决律师事务所大奖"。大成可以通过其全球化法律服务网络，帮助客户高效、经济地处理发生在中国各地及其法律服务网络内其他国家和地区的争议。大成在争议解决领域与强制执行可以提供如下法律服务：

Dacheng traditional strength is in the field of dispute resolution and enforcement, and was awarded the Dispute Resolution Law Firm of Year 2009 by Asian Legal Business (ALB). Drawing upon its global legal services network, Dacheng is able to assist clients in resolving, in a highly efficient and economical manner, disputes arising in any location throughout China, as well as all other countries and regions forming part of its global legal services network. Dacheng offers the following legal services in the field of dispute resolution and enforcement:

(1) 争议解决谈判与争议和解；
negotiations in the course of dispute resolution and settlement of disputes;

(2) 诉前法律咨询；
pre-action legal consultancy;

(3) 诉前调查取证；
pre-action investigation and evidence-gathering;

(4) 证据保全;
preservation of evidence;

(5) 财产保全；
preservation of assets;

(6) 诉讼仲裁代理；
representation in litigation and arbitration proceedings;

(7) 中国法院生效法律文书的强制执行；

enforcement of effective legal instruments of the PRC courts;

(8) 中国仲裁机构（如中国国际经济贸易仲裁委员会）生效裁决的强制执行；

enforcement of the effective awards of Chinese arbitration institutions (such as the China International Economic and Trade Arbitration Commission);

(9) 香港、澳门及台湾法院生效法律文书在中国的承认与执行；

recognition and enforcement of the effective legal instruments of the courts of Hong Kong, Macau and Taiwan in mainland China;

(10) 外国仲裁裁决在中国的承认和执行；及

recognition and enforcement of foreign arbitral awards in China; and

(11) 基于争议解决实务经验的法律风险管理。

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